

Appendix K: Search and Seizure, Policy JFG

Policy JFG

A search involves an invasion of privacy. Whether a search of a student is permissible depends on a balancing of the student's right to privacy and freedom from unreasonable search and seizure against the school division's responsibility to protect the health, safety, and welfare of all persons in the school community and to carry out its educational mission. To maintain order and discipline in the schools and to protect the health, safety and welfare of students and school personnel, school authorities may search a student, student belongings, student lockers, or student automobiles under the circumstances outlined below and may seize any illegal, unauthorized, or contraband materials discovered in the search.

As used in this policy, the term "unauthorized" means any item dangerous to the health or safety of students or school personnel, or disruptive of any lawful function, mission, or process of the school, or any item described as unauthorized in school rules available beforehand to the student. "Student belongings" includes, but is not limited to, backpacks, mobile phones or other electronic devices, purses, jackets, or other personal effects.

A student's failure to permit searches and seizures as provided in this policy will be considered grounds for disciplinary action.

The locations at which searches of students and student property may be conducted are not limited to the school building or school property. Searches may be conducted wherever the student is involved in a school-sponsored function.

Personal Searches

A student's person (including outer clothing) and/or personal effects may be searched by a school official whenever the official has reasonable suspicion to believe that the student is in possession of illegal or unauthorized materials or has violated or is about to violate the law or a school rule and that the search will yield evidence of the violation. All individual searches of students must be initiated based on reasonable suspicion, i.e., a moderate chance of finding evidence of wrongdoing.

In order to be permissible, the search must be:

1. Justified by reasonable suspicion at its inception and
2. Reasonably related in scope to the circumstances justifying the search.

An individual search is justified at its inception when a school official has a reasonable suspicion, based on the totality of the known circumstances, for suspecting that the search will reveal evidence that the student has violated or is violating either the law or the rules of the school. A school search is permissible in its scope when the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the suspected infraction.

A personal search may include requiring a specific student or students to be scanned with a metal detector. General or random use of metal detectors is not covered by this policy.

A pat-down search of a student may only be conducted if a school administrator has a reasonable suspicion that evidence will be found that a law or school rule has been broken. If a pat-down search of a student's person is conducted, it will be conducted in private by a school official of the same sex as the student, and with an adult witness of the same sex as the student present.

Strip Searches

Strip searches, including search of a student's undergarments, involve an extreme intrusion into the rights of a student and may only be conducted when an extremely serious situation exists requiring immediate action because of an imminent threat of death or great bodily injury to a person or persons. If a strip search is necessary, the school official should contact the appropriate law enforcement official, and the search should be conducted by a sworn law enforcement officer of the same sex, in the presence of a same sex adult witness. School officials may only conduct a strip search in cases where it is necessary to avoid the imminent death or great bodily injury to a person or persons, and a law enforcement official is not available in sufficient time. If a strip search must be conducted by a school official, it must be by a school official of the same sex as the student, and with an adult witness of the same sex as the student, and the school official must have the prior approval of the Superintendent or Superintendent's designee, unless obtaining that approval would itself imminently threaten death or great bodily injury to a person or persons.

Searches of Lockers, Desks, and Other School-Provided Storage

Student lockers, desks, and similar school-provided storage facilities are school property and re-main at all times under the control of the school; however, students are expected to assume full responsibility for the security of their lockers and are responsible for the content of their assigned lockers at all times. Periodic general inspections of lockers, desks, and similar school-provided storage facilities may be conducted by school authorities for any reason at any time without notice, without student consent, and without a search warrant or requirement of reasonable cause.

Automobile Searches

Students are permitted to park on school premises as a matter of privilege, not of right. The school retains authority to conduct routine patrols of student parking lots and inspections of the exteriors of student automobiles on school property. Such patrols and inspections may be conducted without notice, without student consent, and without a search warrant or reasonable suspicion of wrongdoing. The interiors of student vehicles may be inspected whenever a school official has reasonable suspicion to believe that the student has violated or is about to violate the law or a school rule and that the search will yield evidence of the violation or that illegal or un-authorized materials or other evidence of illegal or otherwise prohibited activities are contained inside the automobile.

Searches of School Computers

School computers, software, and internet access are school property. Students are only authorized to use school computers and other similar educational technology consistent with the educational mission of the school and in accordance with Policy IIBEA Responsible Computer System Use. School officials may search school computers, software and internet access records at any time for any reason without notice, without student consent, and without a search warrant or requirement of reasonable suspicion.

Consent Searches

If a student gives a school official consent for a search of his or her person, personal effects, and/or the interior of his or her vehicle, the school official does not need to demonstrate reasonable suspicion. A student's consent is only valid if given willingly and with knowledge of the meaning of consent. Students should be told of their right to refuse to be searched, and a student must not perceive himself or herself at risk of punishment for refusing to grant permission for the search.

Seizure of Illegal Materials

If a properly conducted search yields illegal or contraband materials, such findings shall be turned over to proper legal authorities for ultimate disposition.