

Students

SUBJECT: SEARCHES AND QUESTIONING OF STUDENTS

A student may be searched and prohibited items seized on school grounds or in a school building by an authorized District official only when they have reasonable suspicion to believe the student has engaged in or is engaging in activity which is in violation of the law and/or the rules of the school (for example, the District *Code of Conduct* or Board of Education policies). Determining the reasonableness of any search involves a twofold inquiry prior to conducting such search: 1) The action taken by District officials must be justified at its inception, and 2) The search, as actually conducted, must be reasonably related in scope to the circumstances which justified the interference in the first place.

Factors to be considered in determining whether reasonable suspicion exists to search a student include:

- a) The age of the student;
- b) The student's school record and past history;
- c) The predominance and seriousness of the problem in the school where the search is directed;
- d) The probative value and reliability of the information used as a justification for the search;
- e) The school official's prior knowledge of and experience with the student; and
- f) The urgency to conduct the search without delay.

If reasonable suspicion exists to believe that a student has violated or is violating the law and/or school rules, it is permissible for an authorized school official to search that student's outer clothing, pockets, or property. The search may include, but is not limited to, the student's outer clothing such as a jacket or coat, pockets, backpack, and/or purse. Whenever possible, searches will be conducted by a staff member of the same sex as the student and another staff member will be present as a witness.

Strip Searches

A strip search is a search that requires a student to remove any or all of his or her clothing, other than an outer coat or jacket. In general, the Board prohibits District staff from conducting strip searches of students. If a school official believes that an emergency situation exists that could threaten the safety of a student or others, the school official should immediately contact appropriate law enforcement officials for assistance.

Scope of Search

School officials are authorized to conduct searches of students and their belongings if the authorized school official has reasonable suspicion to believe that the search will produce evidence that the student has violated or is violating the law and/or the *Code of Conduct*.

School officials, whenever possible, will seek the least intrusive means to conduct a search to safeguard the privacy interests of students in their person and property.

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SUBJECT: SEARCHES AND QUESTIONING OF STUDENTS (Cont'd.)**Searches and Seizure of School Property**

Student desks, lockers, textbooks, computers and other school-provided/school-owned electronic devices and resources (including but not limited to physical and cloud-based storage systems and email and other messaging systems), and other materials, supplies or storage spaces loaned by the school to students remain the property of the school, and may be opened and inspected by school employees at any time without prior notice and without their consent. The purpose of these searches, when they occur, is to ensure the safety of students, faculty, and staff, enhance school security and prevent disruptions of the learning environment. Students have no reasonable expectation of privacy with respect to school property; and school officials retain complete control over such property.

Parent/Guardian Notification

The student's parent or guardian will be notified if a student was searched and nothing was found, and/or if any illegal, prohibited, or dangerous articles or materials are found in the student's locker, vehicle, or other property or possessions, or on the student's person, as a result of a search conducted in accordance with this policy.

Documentation of Searches

The designated school official conducting the search will be responsible for the custody, control and disposition of any illegal, prohibited or dangerous items taken from the student. The school official or their designee must clearly label each item taken from the student and retain control of the item(s) until the item(s) is turned over to the police or secured by alternate means.

This school official will also be responsible for promptly documenting information about the search including, but not limited to, the reasons for the search, the purpose of the search, the type and scope of the search, and the results of the search.

Questioning of Students by School Officials

School officials have the right to question students regarding any violations of school rules and/or illegal activity. In general, administration may conduct investigations concerning reports of misconduct which may include, but are not limited to, questioning students, staff, parents/guardians, or other individuals as may be appropriate and, when necessary, determining disciplinary action in accordance with applicable due process rights.

Should the questioning of students by school officials focus on the actions of one particular student, the student will be questioned, if possible, in private outside the presence of other students, by the appropriate school administrator(s). The student's parent or guardian may be contacted; the degree, if any, of parental or guardian involvement will vary depending upon the nature and the reason for questioning, and the necessity for further action which may occur as a result.

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The questioning of students by school officials does not preclude subsequent questioning/interrogations by police authorities as otherwise permitted by law. Similarly, the questioning of students by school officials does not negate the right or responsibility of school officials to contact appropriate law enforcement agencies, as may be necessary, with regard to statements given by students to school officials.

School officials acting alone and on their own authority, without the involvement of or on behalf of law enforcement officials are not required to give the so-called "Miranda warnings" (i.e., advising a person, prior to any custodial interrogations as defined in law, of the right to remain silent; that any statement made by the individual may be used as evidence against him or her; and that the individual has the right to the presence of an attorney, either retained or appointed) prior to the questioning of students.

Law Enforcement Officials

A cooperative effort will be maintained between the school administration and law enforcement agencies. Law enforcement officials may be summoned in order to conduct an investigation of alleged criminal conduct on school premises or during a school sponsored activity, or to maintain the educational environment. They may also be summoned for the purpose of maintaining or restoring order when the presence of officers is necessary to prevent injury to persons or property.

Administrators have the responsibility and the authority to determine when the assistance of law enforcement officers is necessary within their respective jurisdictions.

School Resource Officers

The District utilizes School Resource Officers (SROs), law enforcement officers who work within the school building. SROs, acting in their capacity as law enforcement, are held to a different search standard than District staff. Searches by law enforcement SROs must be justified by probable cause, not the District's standard of reasonable suspicion. District staff need to clearly establish who is initiating and conducting a search, the District or law enforcement, and that the appropriate standard for the search has been met.

Searches and Questioning of Students by Law Enforcement Officials

District Officials are committed to cooperating with Police and other Law Enforcement Authorities to maintain a safe school environment. However, law enforcement officials have limited authority to interview or search students in school or at a school function, or to use school facilities in connection with police work. Law enforcement authorities may enter school property or a school function to questions or search a student, or to conduct a formal investigation involving students only if they have: (a) a search warrant or an arrest warrant for the student; or (b) probable cause to believe a crime has been committed on school property, at a school function or event, or during travel to and from school.

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Before law enforcement officials are permitted to question or search a student on school premises, the administration must first attempt to notify the student's parent or guardian to give them the opportunity to be present during the police questioning or search. If the student's parent cannot be contacted prior to the police questioning or search, the questioning or search will not be conducted.

If possible, questioning of a student by police should take place in a private area outside the presence of other students but in the presence of the building principal or designee.

Child Protective Services' Investigations

Consistent with the District's commitment to keep students safe from harm and the obligation of school officials to report to child protective services when they have reasonable cause to suspect that a student has been abused or maltreated, the District will provide data and assistance to local child protective services workers, or members of a multi-disciplinary team accompanying such workers, who are responding to allegations of suspected child abuse, and/or neglect, or custody investigations. Such data and assistance include access to records relevant to the investigation, as well as interviews with any child named as a victim in a report, or a sibling of that child, or a child residing in the same home as the victim.

All requests by child protective services to interview a student on school property must be made directly to the Principal or his or her designee. Child protective service workers and any associated multi-disciplinary team members must comply with the district's procedures for visitors, provide identification, and identify the child(ren) to be interviewed. The Principal or designee will decide if it is necessary and appropriate for a school official or other school staff to be present during the interview, either inside or outside the interview room, depending on the age of the student being interviewed and the nature of the allegations.

A child protective services worker may not remove a student from school property without a court order, unless the worker reasonably believes that the student would be subject to danger of abuse if the student was not removed from school before a court order can reasonably be obtained. If the worker believes the student would be subject to danger of abuse, the worker may remove the student without a court order and without the parent's consent.

Education Law §§ 1604(9), 1604(30), 1709(2), 1709(33), and 2801
Family Court Act § 1024
Social Services Law §§ 411-428
8 NYCRR § 100.2(l)

Adopted: 8/5/96

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