

# POLICY

2016 2014

7330  
1 of 5

Students

## SUBJECT: SEARCHES AND INTERROGATIONS OF STUDENTS

~~Students are protected by the Constitution from unreasonable searches and seizures. A student may be searched and contraband/prohibited items seized on school grounds or in a school building by an authorized School District official (as designated below) only when the School District official has reasonable suspicion to believe the student has engaged in or is engaging in proscribed activity which is in violation of the law and/or the rules of the school (i.e., the District Code of Conduct).~~

A student may be searched and prohibited items seized on school grounds or in a school building by an authorized District official only when he or she has 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 (i.e., the *District Code of Conduct*). The reasonableness of any search involves a twofold inquiry: 1) School officials must first determine whether the action was justified at its inception, and 2) determine whether the search, as actually conducted, was 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.

The Superintendent, Building Principals, Deans, 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.

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, and shoes. 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. Strip searches are intrusive in nature and are not permissible almost never justified.. If school authorities believe there is an emergency situation that could threaten the safety of

# POLICY

2016 2014

7330  
2 of 5

Students

~~others, the student shall, to the extent practicable, be isolated and secured. Police and parents will be contacted immediately.~~ If school officials have highly credible evidence that such a search would prevent danger or yield evidence, such a search may be conducted under exigent circumstances. In the alternative, if school authorities believe there is an emergency situation that could threaten the safety of others, the student will, to the extent practicable, be isolated and secured. Police and parents will be contacted immediately.

## 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.

## **Searches and Seizure of School Property**

Student desks, lockers, textbooks, computers, 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. ~~This means that student desks, lockers, textbooks, computers, and other materials, supplies or storage spaces may be subject to search and/or seizure of contraband/prohibited items at any time by school officials, without prior notice to students and without their consent.~~ However, a student's personal belongings contained within a locker, desk, etc. are subject to the reasonable suspicion standard for searches by an authorized school official.

## **Parent Notification**

The student's parent or guardian will be notified 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 his or her 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.

# POLICY

2016 2014

7330

3 of 5

Students

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) **or dean**. The student's parent/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.

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 such 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 **(at least until after the questioning of students by school authorities has been conducted)** 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.

~~If deemed appropriate and/or necessary, the Superintendent/designee may also review the circumstances with School District legal counsel so as to address concerns and the course of action, if any, which may pertain to and/or result from the questioning of students by school officials.~~

## Law Enforcement Officials

~~It shall be the policy of the School District that a cooperative effort shall be~~ **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

# POLICY

2016 2014

7330  
4 of 5

Students

summoned for the purpose of maintaining or restoring order when the presence of such 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**

Districts may utilize School Resource Officers (SROs), law enforcement officers who work within the school building. There are different types of SROs: those employed by the District and those employed by local law enforcement. 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.

## **Dissemination of Information**

Copies of this Regulation will be distributed to students when they enroll in school, and will be included in the District *Code of Conduct* available to students and parents at the beginning of each school year.

## **Interrogation of Students by Law Enforcement Officials**

~~If police are involved in the questioning of students on school premises, whether or not at the request of school authorities, it will be in accordance with applicable law and due process rights afforded students.~~

Generally, police authorities may only interview students on school premises without the permission of the parent ~~or~~ /guardian in situations where a warrant has been issued for the student's arrest (or removal). Police authorities may also question students for general investigations or general questions regarding crimes committed on school property. In all other situations, unless an immediate health or safety risk exists, if the police wish to speak to a student without a warrant they should take the matter up directly with the student's parent ~~or~~ /guardian.

Whenever police wish to question a student on school premises, administration will attempt to notify the student's parent/guardian.

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

## **Child Protective Services' Investigations**

~~From time to time,~~ **Occasionally,** Child Protective Services(**CPS**) may desire to conduct interviews of students on school property. ~~Such~~ **These** interviews generally pertain to allegations of suspected child abuse ~~and/or~~ neglect. The Board encourages cooperation with (**CPS**) Child Protective Services ~~in accordance with applicable Social Services Law~~ **with respect to access to records and access**

# POLICY

2016 ~~2014~~

7330  
5 of 5

Students

to any child named as a victim, any of the victim's siblings, or any other child residing in the same home as the named victim, in accordance with applicable law

Education Law Sections 1604(9), 1604(30), 1709(2), 1709(33) and 2801  
Family Court Act Section 1024  
Social Services Law Sections 411-428  
8 New York Code of Rules and Regulations (NYCRR) Section 100.2(l)

Adopted: 8/9/04  
Revised: 05/12/2014  
Revised 00/00/2016