

STUDENT SEARCHES AND INTERROGATIONS

The Board of Education is committed to ensuring an atmosphere on school property and at school functions that is safe and orderly. To achieve this kind of environment, any school official authorized to impose a disciplinary consequence on a student may question a student about an alleged violation of law or the district code of conduct. Students are not entitled to any sort of "Miranda"-type warning before being questioned by school officials, nor are school officials required to contact a student's parent before questioning the student. However, school officials will tell all students why they are being questioned.

In addition, the Board authorizes the Superintendent of Schools, a Deputy Superintendent of Schools, Building Principals, Vice Principals, Assistant Principals, the school nurse and district security officials to conduct searches of students and their belongings if the authorized school official has reasonable individualized suspicion to believe that the search will result in evidence that the student violated the law or the District Code of Conduct. The Board directs that no student be searched by school officials unless there exists reasonable individual suspicion, that the search will reveal evidence that the student has violated or is violating either the law or the District Code of Conduct.

The reasonableness of the search will depend upon: the student's age; the student's history and record in school; the prevalence and seriousness of the problem to which the search is directed; the urgency requiring an immediate search; and the probative value and reliability of information used as justification for the search.

The request for a search of a student or a student's possessions will be directed to the Building Principal who if the requester has furnished a reasonable suspicion basis for a student search shall seek voluntary consent from the student to conduct the search and may also attempt to obtain an admission from the student of possession of the contraband or illegal property.

Whenever practicable, the search should be conducted in the presence of the student, where applicable and in the privacy of the Principal's office with another adult staff member being present. The search shall be limited in scope to the extent necessary to locate the illegal contraband or illegal property.

The Principal shall be responsible for the prompt recording in writing of each student search. Such writing should include the reasons for the search, information received that established the need for the search and the name of the informant (informants other than school district employees will be considered reliable if they have previously supplied information which was accurate and verified), the persons present when the search was conducted, any substances or objects located, and the disposition of such substances or objects. The Principal shall be responsible for the custody, control, and disposition of any illegal or dangerous contraband or illegal property taken from a student. The police will be immediately notified whenever school officials come into possession of illegal substances and/or illegal weapons in order to receive direction regarding the disposition of such items.

A search based upon the reasonable suspicion that the health and safety of others is immediately threatened may be conducted with as much speed as is required to protect persons and property.

Desks, school lockers, storage spaces, and computers are the property of the School District and, therefore, students have no reasonable expectation of privacy in such locations. Students shall be informed by the administration that desks, lockers, storage spaces and computers are not their private property, but are the property of the School District and, as such, may be opened and subject to inspection at any time by school officials. Further, the School District may invite the police with K-9 units for the purpose of detecting the presence of illegal drugs and/or other illegal substances in such spaces. Police dogs shall not be brought to search the persons present (sniffing students and other persons in our schools).

No police officer shall perform a student search unless authorized by a search warrant or court order or upon demonstrating probable cause to establish that the commission of an illegal act is occurring on school premises (hot pursuit doctrine).

When authorized to search by a warrant, the Principal shall first attempt to inform the student's parents and guardians of the police demand to search in order to afford the parents and guardians an opportunity to be present at the search. In the event that the parents and guardians cannot be contacted prior to a police search, the parent or guardian shall be informed of the search in writing by the Principal immediately thereafter.

Student Lockers, Desks and other School Storage Places

The rules regarding searches of students and their belongings do not apply to student lockers, desks and other school storage places. Students have no reasonable expectation of privacy with respect to these places and school officials retain complete control over them. This means that student lockers, desks and other school storage places may be subject to search at any time by school officials, without prior notice to students and without their consent.

Personal Searches

A personal search is a search that requires a student to remove not only outer clothing but also inner clothing that may reveal the private parts of their anatomy. If an authorized school official believes it is necessary to conduct a personal search of a student, the school official may do so only if the search is authorized in advance by the Superintendent or Deputy Superintendent in his absence, after consultation with the school attorney. The Superintendent of Schools or Deputy Superintendent in his absence may determine to call the police to conduct the search. If the personal search is to be conducted by school officials it must be based upon a heightened degree of reasonable suspicion and the reasonableness of its scope giving due consideration to the necessity to conduct a personal search based upon the danger posed by the suspected contraband or illegal property and must be conducted by two administrators and/or nurses of the same sex as the student. The only exception to this rule requiring advance authorization is when the school official believes there is an emergency situation that could threaten the safety of the student or others.

Documentation of Searches

The authorized school official conducting the search shall be responsible for promptly recording the following information about each search:

- Name, age and grade of student searched.
- Reasons for the search.
- Name of any informant(s).
- Purpose of search (that is, what item(s) were being sought).
- Type and scope of search.
- Person conducting search and his or her title and position.
- Witnesses, if any, to the search.
- Time and location of search.
- Results of search (that is, what items(s) were found). Disposition of items found.

Time, manner and results of parental notification

The Principal or the Principal's designee shall be responsible for the custody, control and disposition of any illegal or dangerous item taken from a student. The Principal or his or her designee shall clearly label each item taken from the student and retain control of the item(s), until the item is turned over to the police. The Principal or his or her designee shall be responsible for personally delivering dangerous or illegal items to police authorities.

Police Involvement in Searches and Interrogations of Students

District officials are committed to cooperating with police officials and other law enforcement authorities to maintain a safe school environment. Police officials, however, have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police work. Police officials may enter school property or a school function to question or search a student or to conduct a formal investigation involving students only if they have:

1. A search warrant; or
2. An arrest warrant; or
3. Probable cause to believe a crime has been committed on school property or at a school function; or

Before police officials are permitted to question or search any student, the Principal or his or her designee shall first try to notify the student's parent to give the parent 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 shall not be conducted. The Principal or designee will also be present during any police questioning or search of a student on school property or at a school function.

Students who are questioned by police officials on school property or at a school function are entitled to be afforded by the police the same rights they have outside the school. This means:

1. They must be informed of their legal rights.
2. They may remain silent if they so desire.
3. They may request the presence of an attorney.

Child Protective Services (“CPS”) Investigations

The District must give CPS workers and members of a CPS multidisciplinary team access to and an opportunity to interview “any child named as victim in a report of suspected abuse or maltreatment” as well as “any sibling or other child residing in the same home as the named victim” without parental permission or a court order. All requests by CPS to interview a student on school property should be made to the Building Principal who shall require that CPS workers and other members of a multidisciplinary team who accompany a CPS worker, provide professional identification and also identify the specific children they are seeking to access and/or interview.

The Building Principal may authorize a District staff member to observe the interview either from the same or a different room.

CPS and/or the CPS multidisciplinary team must also comply with all visitor policies or procedures of the school or school district which would not unreasonably interfere with CPS interviews or investigation. For example, this might include building procedures such as “sign-in and sign-out”, keeping cell phones on vibrate so as not to disrupt instruction, or similar procedures.

The parent or guardian should not be called prior to or following the CPS interview.

A CPS 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 he or she were 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.

Cross-ref: 5300 Student Conduct
5305 Kingston High School Student Code of Conduct (Jefferson Code)
5460 Child Abuse in a Domestic or Educational Setting

Ref: *New Jersey v. TLO*, 469 U.S. 325 (1985)
People v. Scott D., 34 NY2d 483 (1974)
Horton v. Goose Creek Independent District, 690 F 2d 4780 (1982)
Doe v. Renfrow, 631 F 2d 91, cert. den. 451 US 1022 (1981)
M.M. v. Anker, 477 F.Supp. 837, aff’d. 607 F.2d 589 (2d Cir. 1979)
Bellnier v. Lund, 438 F. Supp. 47 (1977)
US v. Albarado, 495 F 2d 799 (2d Cir. 1974)
In Re Ronald B., 61 AD2d 204 (1978)
People v. Haskins, 48 AD2d 480 (1975)
People v. Overton, 24 NY2d 522 (1967)
Opinion of Counsel, 1 EDR 800 (1959)
Opinion of Counsel, 12 EDR 7866 (1952)

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