

Student Search & Seizure Policy

Definitions

- a. "Appropriate school official" means the Director, or another Administrative staff member designated by the Director, to be the most appropriate school employee considering all the circumstances, who should search a student. Usually the appropriate school official will be the school Director. Generally, the more intrusive the search, the higher the level the appropriate school official should be who conducts the search. Other factors would include age of the student, gender of the student, if the student has an IEP, the student's background, seriousness of the item(s) being searched for, which appropriate school official is reasonably available, and the urgency of the situation.

- b. "Reasonable suspicion" means a particularized and objective basis, supported by specific articulable facts, for suspecting a person of criminal activity; reasonableness extends to both the reason for the search and the appropriateness of the scope of the search.

Purpose

The Administration is responsible for protecting both the health and safety of the enrolled students and the effective operation of the school. As such, the Administration is occasionally asked to weigh an individual's interest in privacy against public safety assurances that can be obtained by conducting a search or seizure. School officials have the authority to search a student's person and personal property, when they have reasonable suspicion to believe the search will turn up evidence that the student has violated or is violating a particular law or school rule.

The guidelines for when and how Administrative officials of Promontory School of Expeditionary Learning may conduct student searches and seize property are outlined below.

Publication

A copy of this policy shall be included in student conduct handbooks, employee handbooks, and available on the Promontory School of Expeditionary Learning website.

School Property

The local school board and Utah State Board of Education acknowledge the need for in-school storage of student possessions and shall provide storage places, including desks and lockers, for that purpose. Where locks are provided for such places, students may lock them against access by other students, but students shall not expect that their privacy prevents examination by a school official. The local school board may direct the appropriate school official to conduct a routine inspection of such storage places. In the course of any search, students' privacy rights will be respected regarding any items that are not illegal or against local school board policy

Authority to Search

- a. **Authority.** Only the appropriate school official, which is the Director or another Administrative staff member designated the by the Director, is authorized to conduct a search. A second member of the school Administration or the police should supervise the search. If a police officer or additional supervisory Administration member is impractical because of an immediate concern for safety, the search should be conducted in view of another member of the school's staff.
- b. **Consent.** The appropriate school official shall attempt to obtain the freely-offered consent of the student to the inspection; however, provided there is reasonable suspicion, the school official may conduct the search without such consent.
- c. **Parent Notification.** Unless the school official reasonably believes that immediate action is necessary to prevent bodily harm to student or another person, the Administration must

contact the parent/guardian of the student prior to conducting any search. If contact is possible, the administration must ask the parent/guardian if they would like to be present and, if an affirmative response is received, may not conduct the search until the parent/guardian has reasonable opportunity to attend. The administration may detain a student in the school office for a reasonable amount of time while waiting for the parent to arrive.

- d. **Privacy.** Searches should be conducted out of view of the general student body. Student searches should be performed by the appropriate school official in a manner that minimizes embarrassment to the student.
- e. **Person and Personal Belongings.** The appropriate school official may only search removed clothing and personal property if there is a reasonable concern that the clothing or personal property conceals something that may cause immediate harm to the student, other students, or the school staff. The school official may require the student to removal all personal effects from the student's pockets. The school official is not authorized to ask students to remove an item of clothing as part of a search, touch the students during the search, or conduct a strip search. The school official must contact and refer the issue to the police if the school official has reasonable belief that a student is concealing an illegal item on their person.
- f. **Student Lockers.** Student lockers are considered school property. The appropriate school official may search lockers if:
 - i. the search is part of a scheduled locker inspection or maintenance,
 - ii. the Administration reasonably believes that conditions or circumstances exist that may threaten the health or safety of those in the school, or
 - iii. the Administration provided reasonable prior notice to the student's parent/guardian of the search and has reasonable cause to believe that the locker contains items that violate the school rules or any applicable law. The Administration should provide students prior verbal or written notice of scheduled locker inspection or maintenance.

- g. **Criminal Activity.** The Administration must notify the police if criminal activity is discovered during the search and may prosecute any criminal activity that occurs on school grounds to the full extent allowed by law.
- h. **Detaining Students.** The may detain students conducting illegal activities, provided that the Administration promptly contacts both the police and the student's parent/guardian.

Search Procedures

Pursuant to this policy, Administrators shall use the following steps when there is reasonable suspicion that a student possesses evidence that a rule or law has been violated:

- a. All requests or suggestions for the search of a student or student's possessions shall be directed to the Director, or another Administrative staff member designated by the Director, or the person in charge of the students if students are out of the district or school. This person is also defined as the appropriate school official.
- b. Wherever possible, before conducting the search, an Administrator shall notify the student, request the student's consent to the inspection and inform the student that she may withhold consent. Such consent, if offered, shall be voluntary. The appropriate school official shall conduct the search, however, with or without the consent.
- c. Wherever possible, an adult third party shall be present at any search of a student or student's possessions.
- d. The appropriate school official may conduct a student search upon reasonable suspicion of the presence of an illegal or dangerous substance or object, or anything contraband under school rules.

Documentation of Search

The appropriate school official conducting the search shall be responsible

for the prompt recording in writing of each student search, including:

- i. the reasons for the search;
- ii. information received that established the need for the search and the name of the informant, if any;
- iii. the persons present when the search was conducted;
- iv. any substances or objects found and the disposition made of them; and
- v. any subsequent action taken.

The appropriate school official conducting the search shall be responsible for the custody, control, and disposition of any illegal or dangerous substance or objects taken from a student. The appropriate school official shall report a student's possession of a dangerous weapon consistent with Section 53A-11-1101.

Items Found

Anything found in the course of a search which is evidence of a student violation of school rules or federal/state laws may be seized and admitted as evidence in any suspension or expulsion proceeding if it is tagged for identification at the time it is seized and kept in a secure place by the school official until it is presented at the hearing. It may also be turned over to any law enforcement officer after proper notation and receipt.

- i. **Return/Disposal of Confiscated Items.** Materials confiscated by the appropriate school official, not deemed illegal nor contraband, will be held for parent pick-up in a designated area within the school building. Written documentation of items seized will be kept on file within the school building and parents may request a copy of the Search & Seizure report. The building administrator or designee reserves the right to dispose of confiscated items at the conclusion of the school year, if retrieval has not been made.

Suspicion for Search

- a. **Health/Safety of Students.** Whenever the search is prompted by the reasonable suspicion that possession of a substance or object immediately threatens the safety and health of the student or

others, the appropriate school official shall act with as much speed and dispatch as is required to protect persons and property in the school while keeping clearly in mind the student's rights and the potential consequences of inappropriate or hasty action.

- b. **“Reasonable Suspicion.”** Reasonable suspicion means a particularized and objective basis, supported by specific articulable facts, for suspecting a person of criminal activity; reasonableness extends to both the reason for the search (reasonable at the inception) and the appropriateness of the scope of the search (reasonable in scope).
- c. **In Addition.** As used in this section, "reasonable suspicion for a search" means grounds sufficient to cause an adult of normal intellect to believe that the search of a particular person, place, or thing will lead to the discovery of evidence that the student:
- i. has violated or is violating a rule or behavioral norm provided in school policy;
 - ii. has violated or is violating a particular law;
 - iii. possesses an item or substance which presents an immediate danger of physical harm or illness to students, staff or school/district property.

Method & Scope of Search

The scope of any search should be limited by the reasonable suspicion that motivated the search. If an item is found that leads to reasonable suspicion that additional, related items may also exist, the search may be extended. If the initial search produces no evidence of contraband, there should be no extension of the search based on simple curiosity or unreasonable teacher/administrator suspicion.

Training

LEAs shall provide adequate training to appropriate classes of employees for fair and consistent implementation of student search policies.