

**AUTHORITY TO CONDUCT SEARCHES AND SEIZURES**

School officials have the authority to conduct reasonable searches of students and to seize students' unauthorized materials for the purposes of maintaining a safe, orderly environment and upholding standards of conduct established by the board or school. Any searches or seizures must be conducted in accordance with the standards described in this policy and any other applicable legal requirements. All school officials carrying out a search or seizure are expected to be knowledgeable about the legal rights of students and the appropriate procedures for conducting the search or seizure. A search must be justified at its inception, permissible in scope, and conducted using methods that are narrowly tailored to be minimally intrusive. School officials shall make reasonable, good faith efforts to investigate allegations of misconduct before a student search is conducted.

Inherent in the right to a public education is the responsibility of students and school officials to adhere to the laws of the state and nation, as well as the rules of the local school, and to keep in mind at all times the individual rights of others.

A student or the student's possessions may be searched when a school official has reasonable suspicion that the search will turn up evidence that the particular student has violated or is violating a specific law or school rule. This reasonable suspicion must be based upon specific and articulable facts, which have been acquired through reliable and/or corroborated information from employees, students, law enforcement officers, or other credible sources, or upon visual or other evidence (e.g., the smell of alcohol or marijuana, an alert from a metal detector or drug dog) viewed in light of the totality of the circumstances and the school official's professional judgment. The scope of the search must be reasonably related to the objectives of the search, and the methods used to conduct the search must be narrowly tailored to be minimally intrusive in light of the age and sex of the student and the nature of the infraction.

Reasonable suspicion is not required if a student freely, voluntarily, and knowingly consents and agrees to the search of his or her person or personal effects.

Therefore, it shall be the policy of the Buncombe County Board of Education to allow school officials to conduct reasonable search of student's person, lockers, automobiles, and other belongings within the school premises under the following conditions and circumstances:

- For the enforcement of disciplinary rules of the school.
- In the event of a "bomb threat" or other similar threat that could endanger students and school personnel.
- When there is a "reasonable suspicion" for suspecting that something unlawful has been or is being committed.

- To investigate any suspicion that conduct or materials dangerous or harmful to the health and welfare of students is occurring or being harbored in the school.
- To protect students from dangerous conditions such as possession and sale of drugs on the premises or the possession of dangerous weapons or substances by other students.
- School officials must have a reasonable suspicion to believe that a student in question possesses contraband.

## **I. Procedures**

- A. When school officials issue lockers or other storage areas for use by students, the students shall be informed that these areas are subject to routine and general inspection by school officials in the interest of health, safety, and welfare of students. The students shall be further informed that such areas are subject to search for reasons listed above. It shall be the policy of this Board that students shall have no expectation of privacy in school lockers, and storage areas. School officials may search a student's desk, locker, and/or personal effects, including but not limited to purses, book bags, and clothing (for example, coats or jackets) not currently being worn by the student.
- B. When it has been determined by a school administrator that a search should be conducted on a student, a reasonable effort shall be attempted to notify the parent or guardian. If a parent or guardian requests to be present, school officials may use their discretion whether to wait to allow the parent or guardian to be present before conducting the search.
- C. School officials shall have a witness present in all search proceedings with the exception of "bomb threats" or other similar threats whereby students and school personnel might be endangered.
- D. If a student's person is to be searched, male students shall be searched by male school officials and female students shall be searched by female school officials. A witness must be in the room during any searches of this type. Both the school official conducting the search and the adult witness must be the same sex as the student.
- E. If a student's person is to be searched, items of clothing to be removed are only those necessary for a concluding determination of possession or non-possession of the item(s) being sought. Such intrusive personal searches will be permissible only if: (1) the school official has reasonable suspicion that a search of a particular student will yield dangerous contraband (e.g., drugs or weapons); and (2) the school official has reasonable suspicion that the student has hidden the contraband in his or her undergarments. This search must be conducted in private by a school official of the same sex as the student, with an adult witness of the same sex present, and only with the prior approval of the superintendent or designee, unless the health or safety of

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students will be endangered by the delay that might be caused by following these procedures. Body cavity searches and searches that might require a student to completely disrobe are strictly prohibited.

- F. Strip searches are prohibited. No clothing item may be removed that would expose a student's undergarments, regardless of who conducts the search. If a student is alleged to have hidden an illegal item in his underwear and denies that it exists, then a referral to law enforcement will be made. The school official will give law enforcement the information that has provided reasonable suspicion for the school search so that law enforcement can determine if "probable cause" exists for a search warrant.

## **II. Obtaining Search Warrants**

Search warrants shall be sought by law enforcement officers under the following conditions:

- A. When school officials have exhausted their efforts to obtain items alleged to be hidden on a student.
- B. When law enforcement agents initiate the search for the primary purpose of discovering evidence of a crime.
- C. School officials may seek and obtain a search warrant through law enforcement agents when:
1. There are reasonable grounds for suspecting that something unlawful is being or has been committed.
  2. When there are reasonable grounds for suspecting that materials dangerous or harmful to the health and welfare of students is occurring or being harbored on the school premises.
  3. To protect students from dangerous conditions such as when there is reasonable suspicion of possession and sale of drugs on the premises or the possession of dangerous weapons or substances.

## **III. Electronic Metal Detection Devices**

- A. School officials have the right to use electronic metal detection devices to screen for metallic contraband. Handheld scanners that electronically signal the presence of metal objects may be used by school officials in conjunction with reasonable searches.
- B. Metal detection devices may be used at school events to screen patrons.

## **IV. Using Canines**

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Local law enforcement has the capability to identify the presence of drugs and explosives by using specially trained dogs.

- A. The school principal shall coordinate the use of search dogs with local law enforcement.
- B. Dogs may be used to search physical areas when students are not directly present.
- C. Dogs may not be used to inspect students' persons.
- D. Such inspections are not considered searches and do not require notice or consent.

#### **V. Automobiles on Campus and at School Sponsored Events**

- A. School officials have the right to visually inspect vehicles parked on school properties by looking into the vehicle.
- B. Students will be asked to open a vehicle for inspection when school officials have reasonable suspicion that contraband or illegal items are hidden in the vehicle.
- C. Refusal by a student to open the vehicle to a reasonable search by school officials may result in a referral to law enforcement.

#### **VI. DESK AND LOCKER SEARCHES**

Student desks and lockers are school property and at all times remain under the control of the school. However, students are expected to assume full responsibility for the security of their desks and lockers. Student desks and lockers may not be used to store illegal, unauthorized or contraband materials. Inspections of desks and lockers may be conducted by school authorities for any reason consistent with board policies or school rules at any time, without notice, without consent, and without a search warrant. A student's personal effects found in a desk or locker, such as backpacks, gym bags or purses, may be searched only pursuant to guidelines for personal searches described above.

#### **VII. Disposition of Items Obtained**

Items seized by school officials through search of a student's person or property may be turned over to law enforcement agents if school officials have reasonable suspicion that a crime or unlawful act has been committed, or if the materials, weapons, or substances confiscated are suspected to be dangerous or harmful to the health and welfare of students.

Legal References: U.S. Const. amend. IV; G.S. 115C-47, -288, -307, -390.2, -391.2

Cross References: School Plan for Management of Student Behavior (policy 4302), School-Level Investigations (policy 4340)

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Takes the place of Policy 463