

Schools must be safe and secure teaching and learning environments. The Board of Trustees directs staff members to take every appropriate and legal measure to ensure the maintenance of a positive, safe and secure school environment. Consequently, authorized staff members may at times be required to search for illegal or inappropriate materials to maintain this environment. When this occurs, staff members shall ensure that the procedures used are reasonable, appropriate, legal and consistent with this policy and its regulation.

Reasonable grounds for searches are outlined in the attached regulation. When assessing the reasonableness of a search, the Board of Trustees recognizes the importance of Division objectives related to school safety as well as the existence and importance of student privacy. The Board of Trustees endeavours to ensure the rights of students are protected. An outline of the legal rights of students, as it relates to possible search and seizure of student property, is attached. When Division authorities deem a search of student property is required, staff members will ensure that the rights of students are respected. Students must be aware that student desks and lockers are public property and school authorities may make reasonable regulations regarding their use.

Responsibilities of staff members, procedures related to search and seizure of student property, and an outline of student rights are included in the regulations attached to this policy.

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### 1. Background, Context and Guidelines

In addition to the procedural responsibilities of staff related to this topic, staff must be aware of the legislation, court decisions and police procedures prior to making any decisions on the search of students or the search and seizure of student property. This section will review reasonable grounds for searching students, the concept of reasonableness as it is applicable to students' legal rights, and court and police guidelines for searches by school authorities and the police.

#### a. Reasonable Grounds for Searches

To determine whether a search is reasonable, all the surrounding circumstances are considered. The following may constitute reasonable grounds:

- i. information received from one student considered to be credible,
- ii. information received from more than one student,
- iii. a teacher's, vice-Principal's, or Principal's own observations, or
- iv. any combination of the above or information which the relevant authority considers to be credible.

The compelling nature of the information and the credibility of these or other sources must be assessed by the school authority in the context of the circumstances existing at the school.

#### b. Student Rights - Concept of Reasonableness

The following sections of the *Canadian Charter of Rights and Freedoms* are applicable to students' legal rights.

- Section 7: The right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice;
- Section 8: The right to be secure against unreasonable search and seizure;
- Section 9: The right not to be arbitrarily detained or arrested.
- Section 10: The right, on arrest or detention, to be informed promptly of the reasons for it; to retain counsel without delay; to be informed of the right to retain counsel without delay; to challenge the validity of the arrest or detention and to be released if it is unlawful.
- Section 12: The right to not be subjected to any cruel and unusual treatment or punishment.

Section 24(2): The right to have evidence obtained in a manner that infringed or denied any Charter rights or freedoms be excluded from court proceedings if, having regard to all the circumstances, the admission of the evidence would bring the administration of justice into disrepute.

### c. **Investigations by School Authorities and Investigations by Police**

Staff should be aware of the distinctions between investigations conducted by school authorities and investigations by police.

#### i. **School Investigations**

Where a school investigation is followed by school discipline, the courts give significant deference to the judgment of a school administrator as long as the process is fair. In matters of school discipline, a broad measure of discretion and flexibility is afforded the school authorities.

#### ii. **Police Investigations**

Where a police investigation is followed by criminal charges, the courts and legislation have provided that:

- police must respect the privacy of young people as they would be mindful of the privacy of adults; and police must not exercise their criminal law search powers without reason or evidence,
- police cannot, even by invitation by the school Principal, perform general searches of students' belongings,
- police have the power to perform school searches, subject to compliance with the *Canadian Charter of Rights and Freedoms*,
- normal standards of reasonable and probable grounds may apply to school searches by police; mere suspicion would not be enough to justify school searches by police.

## 2. **Roles and Responsibilities**

### a. **Chief Superintendent**

The Chief Superintendent shall ensure that:

- i. the primary purpose of the inspection of lockers and the personal property of a student shall be the protection of the health, safety, and general welfare of students, staff members, and school property, and

- ii. searches are conducted where there is reasonable suspicion that a student is concealing something which is in violation of the law, Division policy, school rules, or when in the case of locker searches, the person using the locker is no longer in active attendance at the school.

**b. Area Superintendent**

Area Superintendents shall ensure that each school Principal has incorporated search and seizure procedures into each school code of conduct.

**c. Principal**

The Principal shall:

- i. ensure that the guidelines for search and seizure are incorporated into the school's code of conduct
- ii. inform students and parents/guardians annually of the guidelines for the search of lockers, personal effects, and/or students through the use of assemblies, newsletters and school handbooks,
- iii. establish procedures for the recording of search and seizure incidents and advising the parents/guardians of the student involved that such a search took place,
- iv. ensure the development of consequences for inappropriate possession of prohibited substances or objects in school lockers or on school property in accordance with Division policies for student discipline and suspension.

**3. Search of a Student**

**a. Responsibilities and Procedures**

- i. Principals and teachers have authority to conduct reasonable searches to enforce school rules and protect the health and safety of students in their care.
- ii. In determining the permissible scope of the search, the need to ensure safety of all students must be balanced against the privacy and dignity of the individual student.
- iii. To permit school officials to react quickly to safety problems in the school, a warrant is not essential in order to conduct a search of a student by a school authority.
- iv. The school authority must have reasonable grounds to believe that there has been a breach of school regulations or discipline and that a search of a student would reveal evidence of that breach.
- v. The search itself must be carried out in a reasonable and sensible manner, having regard to all the circumstances, and must not be overly intrusive.

- vi. Under no circumstances will a staff member conduct a body search of a student.
- vii. If a student refuses a search of his/her personal effects, the Principal will advise the student and the police will be contacted.

**4. Search of a Student's Locker/Personal Effects**

- a. A student's locker and/or a student's personal effects may be searched by school or school division officials where there is a reasonable cause to believe that the student is concealing evidence of an illegal act, rule violation, or that illegal or prohibitive substances or objects are present.
- b. The student will be informed and be present, where reasonably possible, when a locker/personal effects search is conducted.
- c. Students will be given the opportunity to provide for such a search or to make voluntary disclosure of the property where reasonably possible in the circumstances.

Information: [Canadian Charter of Rights and Freedoms](#)

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