

SECTION 400 – STUDENTS

STUDENT INTERVIEWS, SEARCHES, PROPERTY SEIZURE AND ARRESTS

POLICY 423

ARTICLE 1 AUTHORIZATION FOR INTERVIEWS, SEARCHES AND PROPERTY SEIZURE

- A. The Board of Education seeks to maintain a climate in its schools conducive to learning and protective of the safety and welfare of staff and students. To achieve this goal, it may be necessary for school personnel to interview and/or search the person/ and/or personal property of a student and to seize any property deemed injurious or detrimental to the safety and welfare of students and staff. The Board of Education authorizes school officials to interview students, conduct searches and seize property within the parameters and limitations set forth in this policy. Interviews, interrogations and searches may also be conducted by law enforcement officers as permitted by law and this policy.

ARTICLE 2 INTERVIEWS CONDUCTED BY SCHOOL PERSONNEL

- A. When a violation of policy or school rules occurs, the Principal or designee may question potential student victims and witnesses without prior consent of the student's parent/guardian. If a school official is investigating a report of child abuse regarding the student and the suspected perpetrator is a member of the student's family, no contact with the student's family shall be made.
- B. In situations where a student is suspected of violating policies or school rules, the Principal or designee may interview the suspected student if the school official has reasonable grounds to suspect that such a violation has occurred. The nature and extent of the questioning must be reasonably related to the objectives of the questioning. If the student denies involvement or culpability, the student will have the opportunity to present his or her side of the story, orally or in writing.

ARTICLE 3 INTERVIEWS OR INTERROGATION BY LAW ENFORCEMENT OFFICERS

- A. Interviews or interrogations of students by law enforcement officers are to be discouraged during school hours and particularly during students' class time. Every effort shall be made not to draw any attention to the student being questioned by conducting the interrogation in private and with as little disruption to the schedule as possible.
- B. When law enforcement officers request an interview with student witnesses or seek to interrogate student suspects, it is their responsibility to assure compliance with all applicable procedural safeguards. However, prior to such interview/interrogation, school officials shall make a reasonable attempt to notify the student's parent/guardian of the request and pending interview/interrogation, except in cases involving investigation of reported child abuse where the suspected perpetrator is a member of the student's family, when law enforcement has a court order directing that the student's parent/guardian not be notified, or when an emergency or other exigent circumstance exists. School officials shall be deemed to have made a reasonable attempt to contact the parent/guardian if the school calls each of the phone numbers that the parent/guardian has provided to the school. The law enforcement officer is to be encouraged to talk directly with the parent. The decision to postpone or not to postpone the interview or interrogation until the parent/guardian arrives is the law enforcement officer's decision.
- C. If a parent/guardian is contacted by school officials, but is unable to be present during the interview/interrogation of his/her son or daughter, a school administrator, upon request of the

References:

C.R.S. 19-2-511 et seq. Children's Code, interrogation of juveniles by law enforcement officers
C.R.S. 22-32-109.1 (2)(a)(VIII) Safe school plan, policy on searches including lockers

Adopted: 4/3/02; Revised 10/15/07,12/08/08

SECTION 400 – STUDENTS

STUDENT INTERVIEWS, SEARCHES, PROPERTY SEIZURE AND ARRESTS POLICY 423

parent/guardian and permission of the officer, may be present during the interview or interrogation.

- D. If school officials are unable to contact the student's parent/guardian prior to an interview or interrogation by law enforcement, a reasonable attempt shall be made to notify the parent/guardian following the interview.

ARTICLE 3 SEARCHES CONDUCTED BY SCHOOL PERSONNEL

- A. "Reasonable suspicion (grounds)" is the standard for a search on school property or at school activities carried out by school authorities. Reasonable suspicion is based on facts provided by a reliable informant or personal observation which cause the school official to believe, based on personal experience, that search of a particular person, place or thing would lead to the discovery of contraband and/or evidence of a violation of Board policy or State or Federal laws. Reasonable suspicion requires more than a mere hunch. "Contraband" consists of all substances or materials prohibited by Board policy or State law including but not limited to drugs, alcoholic beverages, guns, knives, other weapons and incendiary devices.
- B. When reasonable grounds for a search exist, school personnel may search a student and/or the student's personal property while on school premises or during a school activity under the circumstances outlined in this policy and may seize any illegal, unauthorized or contraband materials. Student cell phones and other electronic devices may not be searched without prior consent (Colorado's wiretapping statute – CRS 18-9-301).
- C. Whenever possible, the student shall be informed of the reason(s) for conducting the search and the student's permission to perform the search shall be requested. A student's failure to cooperate with school officials conducting a search shall be considered grounds for disciplinary action.
- D. Any search conducted by a school official shall respect the privacy of the student, not be any more intrusive than necessary and consider the age and sex of the student and nature of the suspected infraction. Searches of the person shall be conducted out of the presence of other students and as privately as possible. At least one but not more than three additional persons of the same sex as the student being searched shall witness but not participate in the search.
- E. Search of the person shall be limited to the student's pockets, any object in the student's possession such as a purse or briefcase, and/or a "pat down" of the exterior of the student's clothing. Searches of the person requiring removal of clothing other than a hat, coat, jacket or shoes shall be referred to a law enforcement officer. No strip search shall be carried out by any school employee.
- F. The parent/guardian of any student searched shall be notified of the search by the end of the same day by any reasonable means.
- G. School lockers, desks and other storage areas are school property and remain at all times under the control of the school. School property provided for the use of students is subject to inspection, clean-outs, access for maintenance and search pursuant to this policy. The Principal or designee may search a desk, locker or any other storage area and its contents

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SECTION 400 – STUDENTS

STUDENT INTERVIEWS, SEARCHES, PROPERTY SEIZURE AND ARRESTS **POLICY 423**

when there are reasonable grounds for a search. Whenever possible, another person shall be available to witness the search.

- H. School property including lockers, storage areas, and desks may be subject to a “sniff” search by dogs trained to locate contraband when the Principal determines that such a search is warranted.

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C.R.S. 19-2-511 et seq. Children's Code, interrogation of juveniles by law enforcement officers
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SECTION 400 – STUDENTS

STUDENT INTERVIEWS, SEARCHES, PROPERTY SEIZURE AND ARRESTS

POLICY 423

- I. Students shall assume full responsibility for the security of their lockers and/or other storage areas in the manner approved by the administration. Students shall be responsible for whatever is contained in desks and lockers assigned to them by the school.
- J. A written administrative report shall be prepared within three days of the search by the school official conducting a search explaining the reasons for the search, the results, and the names of any witnesses to the search. The report shall be provided to the student's parent/guardian and the Superintendent.

ARTICLE 5 SEIZURE OF ITEMS

- A. Anything found in the course of a search conducted by school officials which is evidence of a violation of law or Board policy or school rules or which by its presence presents an immediate danger of physical harm may be:
 1. Seized and offered as evidence in any suspension or expulsion proceeding if it is tagged for identification at the time it is seized. Such material shall be kept in a secure place by the principal until it is presented at the hearing.
 2. Returned to the parent/guardian.
 3. Turned over to a law enforcement officer in accordance with this policy.

ARTICLE 6 SEARCH APPEALS

- A. Within ten school days after a search, the student and/or parent/guardian may appeal the search decision to the Superintendent who shall investigate the reason(s) and circumstances of the search. The Superintendent shall issue written findings within five school days after receiving the appeal. The Superintendent's decision shall constitute final District determination.

ARTICLE 7 SEARCH BY LAW ENFORCEMENT OFFICERS

- A. The Principal or designee may request a search on school premises be conducted by a law enforcement officer. When law enforcement authorities are involved in the search, the search will be conducted under criminal law standards rather than under the provisions of this policy.
- B. When law enforcement officers respond to such a request, no school employee shall assist or otherwise participate in the search unless under the direct order of the law enforcement officer.
- C. If law enforcement personnel seek permission from school authorities to search a student, the student's personal property or school property to obtain evidence related to criminal activities, school officials shall require the law enforcement officer to produce a valid search warrant before the search is conducted unless:
 1. There is un-coerced consent by the student.
 2. There is probable cause and circumstances such that taking the time to obtain a search warrant would frustrate the purpose of the search.

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SECTION 400 – STUDENTS

STUDENT INTERVIEWS, SEARCHES, PROPERTY SEIZURE AND ARRESTS **POLICY 423**

3. The search is incident to an arrest and is limited to the person and immediate surroundings.

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SECTION 400 – STUDENTS

STUDENT INTERVIEWS, SEARCHES, PROPERTY SEIZURE AND ARRESTS

POLICY 423

ARTICLE 9 CUSTODY AND/OR ARREST

- A. When custody or arrest by law enforcement is involved, the Principal shall request that all procedural safeguards as prescribed by law be observed by the law enforcement officers. This includes all due process procedures including but not limited to obtaining proper arrest warrants where required.

References:

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