

Category R

A student, student's property, and that which is under the control or operation of a student, as well as a student's desk or locker, or other school-issued equipment or compartments, may be searched or inventoried in circumstances as set forth below. See also Policy JIHB regarding the search of a motor vehicle.

Setting

A search may take place at school, on school property, or property commonly referred to or operated and/or supervised by the school or district, or any property or vehicles owned by the district or a vendor contracted by the school or district. Moreover, a search may occur when the student is participating in an off-site school event or function, at an off-site location, and therefore is not limited to the traditional hours of the school day.

Conditions

Searches may be conducted when either of the following conditions exist:

Reasonable suspicion – A search may occur when any staff member of the school has reasonable suspicion that the student may possess alcohol; dangerous weapons; prohibited devices; unauthorized controlled substances; property suspected to have been stolen from the school, a school employee/agent/vendor, or another student; or any other item(s) which is suspected to have been disruptive of school operations or in violation of school rules, policies, or criminal laws. The reasonable suspicion shall be brought to the attention of a staff member authorized to conduct a search.

Consent – A search may occur upon the free and voluntary consent of a student. Consent obtained, through threats or coercion, is not considered to be freely and voluntarily given.

Authorized Personnel

A search shall be conducted by any of the following: Principal, his/her designee, Assistant Principal, Acting Administrator of the school, or the designated employee serving as Principal or Assistant Principal during an absence, and/or the Superintendent or Assistant Superintendent of Schools. If these personnel are not available, including at a search deemed advisable off-site, the school official or coach in charge shall attempt to seek direction from an aforementioned administrator. It is preferable that two school personnel be involved in a search. The second person need not be an administrator or authorized personnel described above, but can be any member of the educational staff designated by the school official authorized to conduct the search. The police may be consulted with respect to a search.

Classroom: A classroom teacher in the course of a class is authorized to request that a student "empty" his/her pockets, backpack, or other container if the request is in the process of maintaining classroom discipline and the circumstances do not then appear to require the assistance of an

administrator. If the request involves the search for an item that is unrelated to the current classroom discipline or if a student refuses to comply with the teacher's request, then an administrator authorized to conduct the search shall be called.

School Property

The School District, not the student, retains ownership and possessive control over school-issued equipment, compartments, lockers and desks, and therefore will clean, inspect, repair, or otherwise maintain these at any time for any reason without notice, without student consent, and without reasonable suspicion.

A student who uses school district lockers, desks, and/or other storage areas, compartments, or school-issued equipment, has no expectation of privacy from school employees as to the contents of those areas or items. Students are not to use any school area or property to store anything that should not be at school. Students shall not exchange lockers, desks, compartments, or school-issued equipment, nor use such items other than those assigned to the student. A shared locker or other storage area implies shared responsibility for the property found during a search or inventory.

Limited Scope

Strip searches are forbidden. No clothing except cold weather/outdoor garments, headgear and footwear, will be requested to be removed before or during a search. The school official(s) conducting the search may require that all pockets be emptied.

Seizure

Authorized personnel conducting a search shall have authority to detain the student or students during the search and to seize any item or items which may be relevant to a suspected violation of school rules or law. An item seized during the course of a search may be preserved, inventoried, and held pending resolution of any charge to be brought against the student. It may be returned to the owner once it has been appropriately catalogued and/or photographed for evidentiary purposes. Any item seized will be noted in a written report of the search. If the matter involves alleged criminal conduct, the seized item may be released to the police. When the item is no longer useful for the purposes for which it has been seized, it shall be returned to its owner or destroyed as reasonably determined by the Principal.

Reasonable steps to secure and preserve the integrity of the location of the search shall take place pending the arrival of a staff member authorized to conduct a search.

Discipline

Administrative action deemed appropriate by the Administrator, or otherwise specified by existing policies, shall take place upon an outcome of a search that shows evidence of a violation of school rules, policies, or criminal laws.

Upon a student's refusal to comply with a search requirement, the student shall be detained, and the police shall be called if the item(s) at issue would indicate a crime, including theft, if found. If the item(s), if found, would not indicate a criminal violation, then school discipline shall be issued as if the item had been found with additional reasonable discipline for the student's refusal to comply with a lawful search requirement.

Cooperation with Law Enforcement

The Superintendent, his/her designee, following consultation with the Board Chair and law enforcement officials, is authorized to arrange for the use of trained animals to aid in the search process for dangerous weapons, hazardous materials, or other illegal or unsafe items.

Legal References:

NH Constitution, Pt. I, Art. 19
State v. Drake, 139 NH 662 (1995)
State v. Tinkham, 143 NH 73 (1998)

Appendix JIH-R

Approved KBE: 1/17/12