

Student Interrogations, Searches and Arrests

The Board of Education seeks to maintain a climate in the schools which is 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 search the person and/or the personal property of the student and to seize any property deemed injurious or detrimental to the safety and welfare of students and staff.

Interviews by school administrators

When a violation of Board policy or school rules occurs, the school 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 and the suspected perpetrator is a member of the student's family, no contact with the student's family will be made.

Interrogations by school administrators

In situations where a student is suspected of violating Board policies or school rules, the principal or designee may interrogate 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 any involvement or culpability, the student will have the opportunity to present his or her side of the story, orally or in writing.

Searches conducted by school personnel

School personnel may search a student and/or the student's personal property while on school premises or during a school activity in accordance with this policy and may seize any illegal, unauthorized or contraband materials.

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.

An administrative report shall be prepared by the school official conducting a search explaining the reasons for the search, the results and the names of any witnesses to the search.

Search of school property

School lockers, desks and other storage areas are school property and remain at all times under the control of the school. All such lockers, desks and other storage areas, as well as their contents, are subject to inspection at any time, with or without notice.

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, as well as for any loss or damage relating to the contents of such desks and lockers.

Search of the student's person or personal effects

The principal or designee may search the person of a student or a student's personal effects such as a purse, backpack, book bag or briefcase on school property or at school-sponsored events or activities if the school official has reasonable grounds to suspect that the search will uncover:

- a. Evidence of a violation of Board and/or district policies, school rules, or federal, state, or local laws.
- b. Anything which, because of its presence, presents an immediate danger or physical harm or illness to any person.

Search of the person shall be limited to the student's pockets, any object in the student's possession such as a purse, backpack, book bag or briefcase, and/or a "pat down" of the exterior of the student's clothing.

The extent of the search of a student's person or personal effects, as well as the means to conduct the search, must be reasonably related to the objectives of the search and the nature of the suspected violation. Additionally, school officials conducting the search shall be respectful of privacy considerations, in light of the sex and age of the student.

Searches of the person shall be conducted out of the presence of other students and as privately as possible by a person of the same sex as the student being searched. At least one person of the same sex as the student being searched shall witness but not participate in the search.

Searches of a student's person and/or personal effects may be conducted without the prior consent of the student's parent/guardian. However, the parent/guardian of any student searched shall be notified of the search as soon as reasonably possible.

Searches of the person which may require removal of clothing other than a coat or jacket shall be referred to a law enforcement officer. School personnel shall not participate in such searches.

Seizure of items

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. Such material shall be kept in a secure place by the principal until it is presented at the hearing.
2. Returned to the student or the parent/guardian.

3. Turned over to a law enforcement officer in accordance with this policy.

Appeals

Within 10 school days after a search, the student 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 the final district determination.

Law enforcement officers' involvement

Interrogation and interviews

When law enforcement officials request permission to question students when students are in school or participating in school activities, the principal or designee shall ascertain that the law enforcement officer has proper identification. Except when law enforcement officers have a warrant or other court order, or when an emergency or other exigent circumstances exist, such interrogatories and interviews are discouraged during students' class time.

The principal or designee shall be present during the law enforcement interrogation or interview unless a court order provides otherwise. It is the responsibility of the law enforcement officer interviewing student witnesses or interrogating student suspects to assure compliance with all applicable procedural safeguards.

Upon request by law enforcement to interview a student witness or interrogate a student suspect, school officials shall notify the student's parent/guardian, 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 circumstances exist.

If the student is under 18, the student's parent/guardian also shall be present during the law enforcement interrogation or interview unless: (1) the juvenile is emancipated as that term is defined in state law; (2) the student's parent/guardian has not been notified pursuant to this policy; or (3) the student's parent/guardian agrees to the interrogation or interview without being present.

Search and seizure

The principal or designee may request a search on school premises be conducted by a law enforcement officer. When law enforcement officers respond to such a request, no school employee shall assist or otherwise participate in the search. It is expected that searches by law enforcement will be conducted in accordance with the requirements of applicable law.

Custody and/or arrest

Students will be released to law enforcement officers if the student has been placed under arrest or if the student's parent/guardian and the student consent to such release. When a student is removed from school by law enforcement officers for any reason, school officials will make reasonable efforts to notify the student's parent/guardian.

It is expected that all procedural safeguards prescribed by law are followed by law enforcement officers conducting student arrests. However, district staff is not responsible for an officer's legal compliance when arresting a student.

Adopted: February 27, 1979

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LEGAL REFS.: C.R.S. 19-2-511 *et seq.*
C.R.S. 22-32-109.1 (2)(a)(VIII) (*policy required as part of safe schools plan*)

CROSS REFS.: JIHB, Parking Lot Searches
JK, Student Discipline, and subcodes

File: JIH

Swink School District #33, Swink, Colorado