

**KANE COUNTY SCHOOL DISTRICT SEARCH
AND SEIZURE POLICY**

The Utah State Legislature and the Utah State Board of Education have charged school authorities with the responsibility of safeguarding the safety and well-being of the students in their care. Utah law (Section 53G-8-509) directs local boards of education to have rules in place to protect individual student rights and guard against excessive intrusion. In the discharge of that responsibility, school authorities of Kane County School District may search school property such as lockers used by students, or the person or property of students (including backpacks, purses and belongings, electronic devices, and vehicles), in accordance with the following policy:

Definitions

- A. "Appropriate school official" means the most appropriate school employee considering all the circumstances, who should search a student. Usually the appropriate school official will be the school principal or school director. Generally, the more intrusive the search, the higher the level the appropriate school official should be who conducts the search. Other factors would include age of the student, gender of the student, if the student has an IEP, the student's background, seriousness of the item(s) being searched for, which appropriate school official is reasonably available, and the urgency of the situation.
- B. "Electronic device" means a privately owned device that is used for audio, video, or text communication or any other type of computer or computer-like instrument.
- C. In general, "Reasonable suspicion" means a particularized and objective basis, supported by specific articulable facts, for suspecting a person of criminal activity or a violation of school rule; reasonableness extends to both the reason for the search and the appropriateness of the scope of the search. (A more detailed definition is stated later in this policy.)

School Property: Lockers, Desks, Other Storage Areas Provided for Student Use

The Board of Education acknowledges the need for in-school storage of student possessions and the District provides storage places, including desks and lockers, for that purpose. Where locks are provided for such places, students may lock them against access by other students, but students shall not expect that their privacy prevents examination by a school official. The Board of Education hereby authorizes the appropriate school official to conduct a routine inspection of such storage places. In the course of any search, students' privacy rights will be respected regarding any items that are not illegal or against District or school policy or rules.

- A. All lockers and other storage areas provided for student use remain the property of the school/district. These lockers and storage areas are subject to inspection, access for maintenance, and search pursuant to this policy. A student using a locker or storage area has no expectation of privacy in that locker or storage area or the contents contained therein. (See "Student Locker Assignment Authorization" form

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attached.) In the course of any search, students' privacy rights will be respected regarding any items that are not illegal or against District or school policy or rules. No student shall lock or otherwise impede access to any locker or storage area except with a lock provided by or approved by the teacher or school administrator. Unapproved locks may be removed and destroyed.

- B. An appropriate school official may search student lockers and storage areas and the contents contained therein at any time for any justifiable reason.
- C. An appropriate school official may, at any time, request assistance of the appropriate law enforcement agency having jurisdiction over the facilities of the District or school. The law enforcement officer must have probable cause, however, to personally orchestrate or conduct a search of student lockers and storage areas and their contents.

Using Dogs in Searching School Property

The Board of Education also hereby authorizes the use of canines, trained in detecting the presence of drugs or drug paraphernalia, when the appropriate school official has determined there is a drug problem, the administrator may request for law enforcement conduct random suspicionless sweeps to determine if ~~reasonable suspicion that~~ illegal drugs may be present in a school. This means of detection shall be used only to determine the presence of drugs or drug paraphernalia in locker areas, student desks and other places in the school where such substances or items could be concealed. Canine detection must be conducted in collaboration with law enforcement authorities or other certified organizations and will not be used to search students personally unless either a warrant or parental permission has been obtained prior to the search.

Where a dog sniff search is otherwise appropriate, it is acceptable to detain students or restrict their movement to facilitate the search. Also, schools have authority to require students to relinquish personal items from their possession (backpacks, book bags, gym bags) to facilitate these searches.

Student Person and Possessions

The Board of Education recognizes that the privacy of students or their belongings may not be violated by unreasonable search and seizure and directs that no students are searched without reasonable suspicion or in an unreasonable manner. The extent of the search will be governed by the urgency and seriousness of the alleged infraction, the student's age, and the student's disciplinary history.

Personal Search of a Student and Student Consent to Search

Except as provided below, a request for the search of a student or a student's possessions will be directed to the appropriate school official. The appropriate school official shall attempt to obtain the freely offered consent of the student to the inspection; however, provided there is reasonable suspicion, the appropriate school official may conduct the search without such consent.

Whenever possible, a search will be conducted by the appropriate school official in the presence of the student and a staff member in addition to the appropriate school official. A search prompted by

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the reasonable belief that health and safety are immediately threatened will be conducted with as much speed and dispatch as may be required to protect persons and property.

Search of a student's person shall be conducted by a person of the student's gender, in the presence of another staff member of the same gender, and only in exceptional circumstances when the health or safety of the student or of others is immediately threatened.

The personal search of a student may be conducted by the appropriate school official when the appropriate school official has reasonable suspicion for a search of that student. Authorized searches of the student's person are as follows:

- A. the student's pockets; and
- B. a "pat down" of the exterior of the student's clothing and the removal of any identified item;

Searches of a student's personal possessions include searches of:

- A. purses, briefcases, or any objects in the possession of the student;
- B. an article of exterior clothing such as a jacket after the student has removed it; and
- C. a student's electronic device if warranted and to the extent warranted.

Searching Students and Property While at School-sponsored Activities

This authorization to search shall also apply to all situations in which the student is under the jurisdiction of the Board of Education—including all students participating in extracurricular activities (whether athletics or other types of activity), dually enrolled students and students taking online courses, when the student is participating in a school-sponsored extracurricular activity or is on school property.

Strip Searches

Strip searches are prohibited while a student is within the school's supervision and custody, whether the search is performed by school personnel or by law enforcement officers (whether or not the officer is serving as a school resource officer). If a law enforcement officer determines to take a student into custody and thereby remove the student from the school's supervision and control, the decision whether to perform a strip search of the student becomes the law enforcement officer's responsibility.

Documentation of Search

The appropriate school official shall be responsible for the prompt recording in writing of each student search, including the reasons for the search; information received that established the need for the search and the name of the informant, if any; the persons present when the search was conducted; any substances or objects found and the disposition made of them; and any subsequent action taken. The appropriate school official shall be responsible for the custody, control, and disposition of any illegal or dangerous substance or objects taken from a student. The appropriate school official and/or the superintendent shall report a student's possession of a dangerous weapon consistent with Section 53G-8-510.

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The superintendent or appropriate school official may prepare administrative guidelines to further implement this policy of documentation, maintenance and disposal of items.

Search Procedures

Pursuant to this policy, appropriate school officials shall follow the following steps with regard to student searches:

- A. All requests or suggestions for the search of a student or student's possessions shall be directed to the appropriate school official or the person in charge of the students if students are not on school property.
- B. The appropriate school official may conduct a student search upon reasonable suspicion of the presence of an illegal or dangerous substance or object, or anything contraband under school rules, or other evidence of a violation of a school or District policy or rule.
- C. Wherever possible, before conducting the search, the appropriate school official shall notify the student, request the student's consent to the inspection, and inform the student that he/she may withhold consent. Such consent, if offered, shall be voluntary. The appropriate school official shall conduct the search, however, with or without the consent.
- D. Wherever possible, an adult other than the appropriate school official performing the search shall also be present at any search of a student or student's possessions.

Health/Safety of Students

Whenever the search is prompted by the reasonable suspicion that possession of a substance or object immediately threatens the safety and health of the student or others, the appropriate school official shall act with as much speed and dispatch as is required to protect persons and property in the school while keeping clearly in mind the student's rights and the potential consequences of inappropriate or hasty action.

Reasonable Suspicion

"Reasonable suspicion" means a particularized and objective basis, supported by specific articulable facts, for suspecting a person of criminal activity or of a violation of a rule; reasonableness extends to both the reason for the search (reasonable at the inception) and the appropriateness of the scope of the search (reasonable in scope).

In addition, as used in this section, "reasonable suspicion for a search" means grounds sufficient to cause an adult of normal intellect to believe that the search of a particular person, place, or thing will lead to the discovery of evidence that a student:

- A. has violated or is violating a rule or behavioral norm provided in school policy;
- B. has violated or is violating a particular law;
- C. possesses an item or substance which presents an immediate danger of physical harm or illness to students, staff or school/district property;

Method and Scope of Search

The scope of any search should be limited by the reasonable suspicion that motivated the search. If an item is found that leads to reasonable suspicion that additional evidence of violations of law or rules may also exist, the search may be extended or expanded accordingly. If the initial search produces no evidence of contraband, there should be no extension of the search based on simple curiosity or unreasonable teacher/administrator suspicion.

Items Found

Anything found in the course of a search which is evidence of a student violation of District policy, school rules or governing laws may be seized and used as evidence in any suspension or expulsion proceeding if it is tagged for identification at the time it is seized and kept in a secure place by the school official until it is presented at the hearing. It may also be turned over to any law enforcement officer after proper notation and receipt.

Vehicles

Vehicles in the possession of students and parked on school premises may be searched, based on reasonable suspicion, by the appropriate school official. Searches of vehicles of staff members or visitors shall be conducted by law enforcement personnel.

Use of Breath-Test Instruments

The appropriate school official may arrange for a breath test for blood alcohol to be conducted on a student whenever the school authority has individualized reasonable suspicion to believe the student has consumed an alcoholic beverage.

The appropriate school official shall attempt to contact a local law enforcement agency and arrange for it to conduct the test.

The following procedure should be used if the test is conducted by a school official:

- A. Take the student(s) to a private administrative or instructional area on school property and have at least one other member of the teaching or administrative staff present as a witness to the test. If the student refuses to take the test, inform him or her that refusal to participate leaves the observed evidence of the alcohol use unrefuted, thus leading to disciplinary action.
- B. Allow the student a second opportunity to be tested, and if the student refuses again, ask the student to sign a refusal statement. Regardless of whether or not the student signs a refusal statement, prepare a written report of the incident.

Student Electronic Devices

Student electronic devices may be searched based on the same standards applicable to other searches of student belongings (there must be reasonable suspicion which justifies the search and the search must be reasonable in scope as determined by the purpose of the search). Care should be taken with regard to adhering to the appropriate scope of the search because student electronic devices often contain a wide range of private and personal information and much of the information on a student device may therefore be unrelated to the suspected violation underlying a search of a student's device.

Parent Notification of Student Interrogation

School officials have no obligation to contact parents before detaining and questioning students, or before searching a student or the student's belongings. It is good practice when a student is questioned about serious allegations of the student's own misbehavior, that another responsible adult should be notified to protect the interest and well-being of the student. As outlined above, when possible another adult should be present during a search of the student or the student's belongings.

At least one federal Circuit Court has concluded that school officials should not have to choose between the school's preferred [reasonable] discipline methods and complying with "burdensome procedures decreed by federal courts." If a child is under a school's guardianship (for example, the daily temporary custody that the school has when the child is at school), the courts have not required parental notification. However, depending on various circumstances, notifying parents about a student search or about questioning relating to a serious allegation of the student's own misbehavior is often a good idea and therefore the appropriate school official should consider whether to notify parents before conducting a search of the student's person or before questioning a student about serious allegations of the student's own misbehavior.

Police Involvement

Where school officials initiate a search and police involvement is minimal, the reasonableness standard is applicable. The ordinary warrant requirement and probable cause standard will apply where "outside" police officers initiate, or are predominantly involved in, a school search of a student or student property for police investigative purposes.

Distribution of Search and Seizure Policy

A copy of this policy in both electronic and printed form shall be made available to parents and students upon enrollment in any school in the District.