

School Administration

Administrative Procedure: Search, Seizure and Interrogation			
EFFECTIVE DATE: May 25, 2005	R E F E R E N C E S	ADMINISTRATIVE PROCEDURE CODE: 1.A.180	
AMENDED DATE:		Policy Reference	
		Legal Reference	

The Board supports all staff in the maintenance of law, order, discipline, and decorum in its schools and during authorized school functions.

The Division prohibits the possession, on school property or at authorized school functions, of substances or objects which may threaten good order, discipline, decorum, and public safety. Such materials or objects may include, but are not restricted to the following list:

- Alcoholic beverages
- Illicit drugs
- Stolen property
- Weapons, either restricted or prohibited by law
- Any object which may be used as a weapon or that may cause serious injury

- Hate literature, racist, pornographic or offensive material, or any material inappropriate for a school setting

Student lockers are the property of the Border Land School Division. School Administrators have the authority to search students, and to search, inspect and screen property and to seize illegal substances or dangerous objects.

Communication of Policy

Parents, students, Division employees and the public shall be informed that public school campuses are Division property under the control of principals and teachers. Students and their property, while at school or while traveling to and from school or while participating in school activities, are subject to searches, without warrant, by principals and teachers in the performances of their duties. The communication of policy is important to proactively reduce the incidence of breaches of discipline and to lower the subjective expectation of privacy of students.

Inspections of Property

In addition to and distinct from searches for evidence of a breach of discipline, property belonging to the school and Border Land Division, including lockers, is subject to administrative inspection by the principal or designate, at any time, in the normal course of the school's operations. Such inspections are for general compliance with good order, hygiene, and maintenance of school property.

Property belonging to students, such as book bags, knapsacks, back packs, lunch boxes or other containers stored on school property is subject to inspection by the principal or designate in the normal course of the school's operation.

Where evidence of a breach of discipline is found during an administrative inspection disciplinary action may be taken.

Conditions of Search

In order for there to be a valid search of a student or the student's belongings there must be reasonable grounds to believe:

- that there has been a breach of school regulations or discipline; and
- that a search of a student or the student's belongings would reveal evidence of that breach.

Search of a Student

Where Conditions for Search exist, a principal or a teacher may conduct a search, without warrant, of a student.

Unless circumstances dictate that it take place immediately, a personal search shall be conducted in a private location designated by the principal.

An adult witness shall always be present when a personal search is conducted.

No cross gender searches will be conducted.

As a guiding principle, personal searches should be conducted without touching the person of the student. In no circumstance should the student be touched without the consent of the student.

Where a personal search is conducted, the individual will first be given the opportunity to voluntarily produce the substance or object he/she is suspected of possessing.

Where the student fails to produce the substance or object, the student shall be asked to remove his/her jacket, sweaters (where worn as outerwear), shoes and socks, any bag, knapsack, backpack or container in his/her possession and surrender these articles for search. Pants and shirts (and sweaters where worn as a next to skin item), shall not be removed.

The student shall be asked to remove all objects from his/her pockets and have them turned out for inspection.

Should a student refuse to comply, the principal or designate shall make every attempt to contact the parent/guardian and have the discretion to refer the matter to the police for assistance or advice.

Search of Property not Motor Vehicle

Where Conditions for Search exist, an administrative staff member accompanied by another adult may search, without warrant, the personal property of the student or his/her locker, desk or other storage space, including ICT (computer) storage space, for the purpose of disclosing the presence of suspected stolen or illegal property or materials.

Should such a search be likely to result in damage to a student's property (e.g. where an individual refuses to comply with the request or cannot be located) the police shall be called in for assistance or advice.

Searches of Motor Vehicles

While motor vehicles parked on school/Division property, including motorcycles and automobiles, are subject to searches by school authorities, all school authorities shall refer such searches to law enforcement authorities.

Where Conditions for Search of a motor vehicle exist, and a principal is of the opinion that a search ought to be conducted, the principal shall contact law enforcement authorities and provide them

with full particulars of the Conditions for Search including: the description of the subject motor vehicle, the license plate number, the name of the owner or operator of the motor vehicle, the nature of the evidence expected to be found, and the source of information which leads him/her reasonably to believe that evidence is to be found .

Screening by Trained Dogs

Border Land School Division may periodically use trained dogs for screening for illegal substances in schools and on school grounds, including parking facilities.

Where a screening by a trained dog is desired, a principal shall request such screening from the Superintendent who shall retain a private contractor to conduct the screening. Once a screening has been authorized:

- the principal or designate will determine what times and in what specific areas the trained dog shall be utilized;
- the trained dog shall be controlled and directed at all times by qualified handlers from the private contractor; and
- at all times that the trained dog and its handler are in the school or on school grounds they shall be accompanied by school administrative personnel.

Where the trained dog gives a signal of the presence of an illegal substance it shall constitute Condition for Search and the school administrator accompanying the trained dog shall determine:

- whether the evidence is likely to be evidence relating to a breach of discipline, in which case he/she may carry on with a search, without warrant, of the targeted area; or
- whether the evidence is likely to be evidence of a criminal activity, in which case he/she shall cause the area to be sealed off and kept under watch and shall contact law enforcement agencies to conduct a search, with warrant.

Failure of Student to Cooperate during a Search

Failure by a student to cooperate in a search or to comply with the requests of the principal or designate during any search or inspection procedure will result in immediate disciplinary action.

Actions after Seizure

Where property is seized during a search of a student or of the personal property of the student or his/her locker or another storage area, the principal, or designate shall, where warranted:

- initiate the appropriate disciplinary actions to be taken in the circumstances including determining whether the matter should be referred to law enforcement agencies;
- notify the parent or guardian of the student under the age of 18 and provide them with particulars of the property seized and the disciplinary actions (if any) being taken.

Where the seized property constitute illegal or dangerous property such as drugs or a weapon, give it to law enforcement authorities and confirm whether law enforcement authorities will be laying charges.

Where the seized property does not constitute illegal or dangerous property, give it to the parent or guardian of the child or otherwise dispose of it as is appropriate in the circumstance. In the case of a student over the age of 18, property can be returned to the student.

Student Interrogations

In congruence with *Student Search and Seizure Policy*, the need may arise to interrogate or question students in the maintenance of order, discipline, and safety on school premises or at school related activities. The attached situational guidelines will provide direction for the staff when such questioning or interrogation is required.

Interrogations by School Administration

School administrators and teachers are given broad authority to maintain order and discipline in the school. In conducting a student interrogation, the administration will use the *Code of Conduct* and *Discipline Policy* of the Division as a guide. School administrators are advised that when matters of alleged criminal activity are referred to the police, formalized legal procedures with respect to admissible evidence and related cautions will be respected.

Interrogation by Police Officers

The police shall not conduct investigations in the schools except when it is absolutely necessary for them to do so in the proper discharge of their duties. When students have to be interviewed by the police, the principal shall act in accordance with the *Youth Criminal Justice Act*.

In compliance with the *Youth Criminal Justice Act*, if a young person is suspected of having committed or being involved in a crime that necessitates police investigation:

- The police officer will report to the office of the principal and make known the purpose of the visit.
- The principal will bring the student to the office where the interrogation is to take place.
- The police officer will inform the student that:
 - The student is under no obligation to give a statement.
 - Any statement given by him/her may be used as evidence in proceedings against him/her.
 - He/she has the right to consult with:
 - Counsel or a parent (except for students under the age of 12 who do not have a right to consult with counsel).
 - An adult relative, in the absence of a parent/guardian.

- Any other appropriate adult (over 18) of his/her choice, in the absence of a parent/guardian.
- Any statement made by him/her must be made in the presence of the person consulted unless he/she expressly waives the right in writing.

Interrogations by Child and Family Services Representatives

Principals are required to assist Child and Family Services representatives who wish to interview a child regarding alleged abuse. *The Child and Family Services Act* clearly states that their representatives are authorized to attend at a school to take custody of a child or children where there are reasonable and probable grounds to believe that the child is in need of protection. Any person claiming to be a Child and Family Services representative **must** satisfy the principal as to his/her identity.

WAIVER PURSUANT TO THE YOUTH JUSTICE ACT-FORM

The waiver form pursuant to the *Youth Justice Act* is a document generally used by the police department when interrogating young people.

If the school administration is interrogating a student for the purpose of taking a statement pertaining to a criminal or quasi-criminal matter, he/she may wish to follow the outline of the *Youth Justice Act Statement to Person in Authority*. If used, the form should be explained to the student by the principal to ensure a clear understanding of its purpose.

**YOUTH JUSTICE ACT
STATEMENT TO PERSON IN AUTHORITY
(SECTION 56)**

STATEMENT OF _____ BIRTHDATE _____

ADDRESS _____ PHONE _____

PLACE _____ DATE _____ TIME _____

INVESTIGATION: _____

CRIME/TRAFFIC ASSIGNMENT # _____

I, **of** _____
(Name of Young Person)

(Address)

give this statement freely and voluntarily.

I, _____ **before** I gave my statement have had explained to me by
_____ that:
(Name of Person in Authority)

STANDARD CAUTION:

YOU NEED NOT SAY ANYTHING. YOU HAVE NOTHING TO HOPE FROM ANY PROMISE OR FAVOUR, AND NOTHING TO FEAR FROM ANY THREAT, WHETHER OR NOT YOU SAY ANYTHING. ANYTHING YOU DO SAY MAY BE USED AS EVIDENCE.

1. I am under no obligation to give a statement.
2. Any statement that I may give may be used as evidence in proceedings against me.
3. I have been given an opportunity to speak to a lawyer or a parent or, in the absence of a parent, an adult relative, or in the absence of a parent or an adult relative, an adult of my own choosing.
4. I have a right to give my statement in the presence of my lawyer, or my parent, or an adult relative or an adult of my own choosing, and I wish to give my statement: (circle choice)
 - In the presence of my lawyer.
 - In the presence of one of my parents.

- In the presence of an adult relative.
- In the presence of an adult of my own choosing.
- Without anyone else other than _____ in attendance.
(Name of Person in Authority)

The Statement which I, _____ make of my own free will, is as follows