

## Administrative Procedure 353 - Student Searches

### Background

The Division expects school personnel to be primarily concerned with the best interests of all students in their care. Teachers and school administrators are responsible for providing a safe educational environment and maintaining order and discipline in Division schools, school functions, including school-sanctioned social environments and off-site events.

Desks and student lockers are the property of the Division, which are provided for student use, but are not to be considered as part of the student's private property. With regard to the searching of lockers/desks, students or inspections/searches of their personal property (including vehicles on school property), the Division recognizes that the Supreme Court stated in *R. v. M.(M.R.)*, [1998] 2 S.C.R. (para.33) that the reasonable expectation of privacy of students is less than it would be in other circumstances which may require searches of students and their personal effects and the seizure of prohibited items, and that it would not be reasonable for a student to expect to be free from such searches. A student's reasonable expectation of privacy in the school environment is significantly diminished.

The Division expects the following to be observed with regard to student searches:

- Searches of students or their private property are only to be conducted on the basis of reasonable grounds;
- Searches of lockers, desks, vehicles, etc are only to be conducted on the basis of reasonable grounds;
- School personnel have a duty to uphold the law.

Police authorities do not have the automatic right to conduct their investigations on school property during school hours, except in accordance with a warrant, other specific statutory authority, or "exigent circumstances" of urgency or emergency, such as a bomb threat, person with a weapon, or pursuit of a fleeing suspect.

### Definitions

In this Administrative Policy,

1. "reasonable grounds for a search" means any one of the following
  - (i) information received from a credible student or person,
  - (ii) information from more than one person where possible,
  - (iii) a teacher's or principal's own observations, or
  - (iv) any combination of the above information that is credible;

2. **“school property used by a student”** includes a school building, school parking lot, desk, locker, school storage area or any other school article or object used by a student including Division electronic information resources;
3. **“student articles and objects”** means articles or objects owned or used by a student either on Division premises, including school parking lots or during school-sanctioned social environments, including off-site activities including but not limited to vehicles, backpacks, clothing, purses, suitcases, and tote bags.

## **Procedures**

1. Under no circumstances shall strip searches be conducted by school personnel.
2. Under no circumstances shall random and arbitrary searches of students, school property used by students, or student articles and objects be conducted by school personnel.
3. For clarity, school officials may conduct searches of student bags and purses or other personal effects for controlled substances, alcohol, or weapons or otherwise prior to admitting students into school functions (including at school sanctioned social environments, including school dances and graduation ceremonies or parties, etc.).
4. The Division owns student lockers and desks. School personnel have the authority to inspect/search school and Division property under their charge where there are reasonable grounds to do so. The primary purpose for locker/desk inspection/search shall be for the protection of health, safety and general welfare of students, staff and school property. The Division has a zero-tolerance for possession or storage of illegal or dangerous items and drugs and alcohol. Students cannot keep any of the following in your school locker:
  - 4.1. Anything that could be used as a weapon;
  - 4.2. Anything deemed by the school or police to be a danger to students;
  - 4.3. Anything that is illegal to possess;
  - 4.4. Drugs or alcohol; and
  - 4.5. Anything which is in violation of school or Division rules.
5. A student search and seizure may be undertaken where school personnel believe, on reasonable grounds, that the health, safety and security of students and/or staff is involved.
6. The reasons for conducting the search shall be recorded in writing by the Principal, and kept on file at the school for one calendar year.
7. Searches may also be conducted when school personnel has reasonable grounds to believe that a student is concealing something, possession of which is a violation of the law, or of school or Division rules.
8. A student’s parents may be informed of a student search or seizure prior to the occurrence of the same. However, school personnel may proceed with a student search and seizure in accordance with this Administrative Procedure without first informing the student’s parents

where immediacy is needed or where it would not be reasonable to contact the parent in advance. The student's age, conduct, history and the urgency of making the search without delay are circumstances bearing on the decision to call the student's parents.

9. The inspection/search shall be conducted by two (2) adults, one of whom must be the Principal or designate.

- 9.1 When practicable to do so, the Principal shall attempt to have the student present when a locker, desk or other assigned storage facility is searched. The Principal shall use discretion when retrieving and requesting the student be present.

- 9.2 The student shall be informed as soon as convenient of any item(s) removed from their locker/desk/personal property.

10. Should such an inspection/search result in the discovery of material(s) which are inappropriate, the Principal or designate has the authority to seize or remove the material(s), including sealing the locker for the purpose of seeking further counsel.

11. The Principal or designate shall be entitled to terminate any agreement for the use of a locker(s) by a student at any time, and for any reason that the Principal considers reasonable.

12. If suspected of wrongdoing, a student may be directed to empty their pockets, knapsack, purse, etc.; however, physical searches of students are not to be undertaken by school personnel. If, in the opinion of the school authority, a physical search is to be conducted, the parent and police are to be contacted.

- 12.1. When the Principal determines that there are reasonable grounds to believe that a search is necessary, in accordance with this Administrative Procedure, which involves a physical search of articles carried with, by, or on the student's person, the student and any suspect property are to be taken to a private area where the search can be conducted in private.

- 12.2. the Principal shall ensure that at least two (2) adults are present during the search and shall ensure that gender concerns are addressed.

- 12.3. In the event that the student refuses to cooperate with the search and/or leaves the school the school principal shall interpret this action on the part of the student to be willful disobedience and/or open opposition to authority. The Principal will act accordingly on this basis and as age-appropriate to the student, including communication with the parent, suspension of the student, and/or a recommendation of expulsion.

13. If the proposed search results from a suspicion of criminal activities, the police may be informed, and the matter turned over to their investigation.

- 13.1 Prior to contacting the police, school principals must contact the Superintendent, Deputy Superintendent, or Assistant Superintendent of Human Services for confirmation of next steps unless there is an immediate risk to the health and safety of students and staff.

14. Wherever it is deemed appropriate by those conducting the search, the parents of the student shall be informed of the search, and the reasons for it.

15. School personnel have a duty to uphold the law. The Principal or designate may contact police authorities based on his/her assessment of the individual circumstances.

15.1 Prior to contacting the police, school principals must contact the Superintendent, Deputy Superintendent, or Assistant Superintendent of Human Services for confirmation of next steps unless there is an immediate risk to the health and safety of students and staff.

16. Any property seized as possible evidence in a criminal proceeding is to immediately be turned over to police. Property taken as a result of breach of school rules (e.g. possession of skateboard at school) is to be retained in a secure manner and only for such period as may be prescribed by school rules in this regard. If such goods are lost or stolen after being taken from the student, liability for such loss shall rest with the employee who confiscated the goods.

16.1 Prior to contacting the police, school principals must contact the Superintendent, Deputy Superintendent, or Assistant Superintendent of Human Services for confirmation of next steps unless there is an immediate risk to the health and safety of students and staff.

17. In the event that a school search results in the finding of illegal substances, weapons, explosives or stolen property, the Principal is encouraged to use the power granted under the Education Act to suspend the student and then make a recommendation to the Board for the expulsion of the student, if the Principal considers it appropriate to do so and in consultation with the Superintendent.

18. If the police authorities wish to search a student's person, personal property, or locker, then the school officials are to require that they obtain a search warrant or act in accordance with the legal standards set for police authorities by the Supreme Court of Canada, unless the urgency of the matter dictates otherwise.

18.1 Where the police are to conduct a search under these conditions, the school principal shall make reasonable attempts to contact the parents of the student prior to the search occurring should the parents wish to be present.

19. Police authorities shall not conduct random and arbitrary canine searches.

20. Where reasonably practical, the Principal is to be present during all police searches for observation purposes.

21. Where there is a School Resource Officer (SRO) on-site, schools should consider the SRO to be police services and the school principal must consider, prior to accessing this resource, if there is an immediate risk to the health and safety of students or staff:

21.1 Where there is no immediate risk, the SRO should not be involved in searches unless there is the potential for criminal charges and the school believes criminal charges would be the best result for the school and student. In this event, prior to contacting the SRO, school

principals must contact the Superintendent, Deputy Superintendent, or Assistant Superintendent of Human Services.

21.2 Where there is reasonable cause to believe there is an immediate risk, the SRO should be contacted for supports and when reasonable the school principal will contact the Superintendent or designate that SRO services have been engaged.

Reference: Section 11, 32, 33, 52, 53, 197, 222 Education Act

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