

Student Interrogations, Search, and Seizure Policy 5.0740

Current Policy	Proposed Change
<p>5.0740 STUDENTS RIGHTS AND RESPONSIBILITIES: INTERROGATIONS AND SEARCHES</p> <p>5.0740.01 <i>SEARCH AND SEIZURE Issue Date: 4/10/97</i></p> <p>Students shall be free from unreasonable search and seizure by school officials. School officials may search a student or a student's property with reasonable cause, or with the student's consent.</p> <p>5.0740.02 <i>SEARCHES OF PLACES Issue Date: 4/10/97</i></p> <p><i>U.S. Constitution, Amend 1. Jones v. Latexo, 499 F.Supp.223 (E.D.Tex.1980)</i></p> <p>Students do not have an expectation of privacy or exclusive control of areas such as lockers, which are owned and jointly controlled by the District. These areas may be searched with or without reasonable cause.</p> <p><i>Zamora v. Pomeroy, 639 F.d 662 (10th Cir.1981)</i></p> <p>5.0740.03 <i>SEARCHES OF STUDENTS Issue Date: 4/10/97</i></p> <p>Searches of students' outer clothing and pockets may be conducted if reasonable cause exists.</p> <p><i>Doe v. Renfrow, 475 F.Supp.1012 (N.D.Ind.1979)</i></p> <p>Highly intrusive invasions of a student's privacy, such as searches of the student's person, shall be conducted only if reasonable cause exists to believe that the student possesses contraband.</p> <p><i>Doe v. Renfrow, 631 F. 2d 91 (7th Cir.1980)</i></p> <p>5.0740.04 <i>POLICE INVOLVEMENT Issue Date: 4/10/97</i></p> <p>If law enforcement authorities are involved in the search, the search shall be conducted under criminal law standards rather than under the</p>	<p>5.0740 STUDENT INTERROGATIONS, SEARCH, AND SEIZURE</p> <p>5.0740.01 Search and Seizure</p> <p>Students shall be free from unreasonable search and seizure by school officials. School officials may search a student or a student's property with reasonable suspicion or with the student's consent. A search must be reasonable both in the reason for the search and the scope of the search.</p> <p><i>New Jersey v. T.L.O., 469 U.S. 325 (1985)</i> <i>Jones v. Latexo, 499 F. Supp. 223 (ED. Tex. 1980)</i> <i>Bellnier v. Lund, 438 F. Supp. 47 (N.D.N.Y 1977)</i></p> <p>5.0740.02 Reasonable Suspicion</p> <p>"Reasonable suspicion" is a particularized and objective basis, supported by specific articulable facts, for suspecting a person of violating law or policy.</p> <p>5.0740.03 Searches of Places</p> <p>Students have a limited expectation of privacy of areas such as lockers, which are owned and jointly controlled by the school. While students may lock or otherwise secure lockers from access by other students, this does not give the student an expectation of privacy with regard to school access, nor may a student lock or secure a locker with means that are not approved by the school. These areas may be searched on a school-wide or individual basis when the school determines there is cause to conduct such a search. In addition, the school district has a reasonable and valid interest in ensuring that the lockers are properly maintained. For this reason, periodic inspection of lockers is permissible</p>

provisions of District policy.

Picha v. Wielgos, 410 F.Supp.1214 (N.D.1976)

5.0740.05 *STUDENT CONSENT* Issue Date:
4/10/97

If the District does not have reasonable cause to search a student or his property, the District may search with the student's free and voluntary consent. However, consent obtained through threat of contacting police authorities is not considered to be freely and voluntarily given.

Jones v. Latexo, 499 F.Supp.223 (E.D.Tex.1980)
Cormier v. Hardin-Jefferson, Comm. of Ed. Dec.
(1981) *Silver v. Cromer*, 529 F.2d (b) (10th
Cir.1976)

to check for cleanliness and vandalism.

Any illegal items or contraband discovered during such searches (including electronic cigarette products) shall be confiscated by school officials and may be turned over to law enforcement officials. Student privacy regarding contents of the locker which are not contraband or in violation of law or policy will be respected.

Zamora . Pomeroy, 639 F. 662 (10th Cir. 1981)
Singleton v. Board of Educ. USD 500, 894 F.
Supp. 386 (D. Kan. 1995)

5.0740.04 Searches of Students

Searches of students' outer clothing and pockets may be conducted if reasonable suspicion exists. 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. This authorization to search shall also apply to all situations in which the student is under the jurisdiction of the School—including all students participating in extracurricular activities and athletics, dual-enrolled students and students taking online courses, when applicable.

5.0740.05 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.

5.0740.06 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, related items may also exist, the search may be extended. 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.

Anything found in the course of a search which is evidence of a student violation of School rules or federal/state laws may be seized and admitted as evidence in any suspension or expulsion proceeding. It may also be turned over to any law enforcement officer.

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.

5.0740.07 Interrogations and Searches

Highly intrusive invasions of a student's privacy, such as searches of the student's person or strip searches, shall be conducted only if individualized reasonable suspicion exists to believe that there is a legitimate safety concern due to a student's possession of weapons. These searches must be designed to be minimally intrusive, taking into account the item for which the search is conducted. Strip searches are seldom warranted and shall not be conducted without prior consultation with District administration and if possible legal counsel.

Singleton v. Board of Educ. USD 500, 894 F. Supp. 386 (D. Kan. 1995) Doe v. Renfrow, 631 F.2d 91 (7th Cir. 1980)

Konop v. Northwestern School Dist., 26 F. Supp. 2d 1189 (D. S.D. 1998)

5.0740.08 Student Consent

If the District does not have reasonable suspicion to search a student or his property, the District may search with the student's free and voluntary consent.

However, coercion, whether expressed or implied, invalidates the apparent consent. *Jones v. Latexo*, 499 F. Supp. 223 (E.D. Tex. 1980)

5.0740.09 Electronic Cigarette Products

Students are prohibited from possessing or using electronic cigarette products while on School property and electronic cigarette products will be confiscated. School officials will properly store and arrange for disposal of any confiscated electronic cigarette product. Because electronic cigarette products are hazardous waste, school officials must turn over items to law enforcement for disposal or follow the proper disposal as outlined by the Utah Department of Environmental Quality. (Utah Admin Code R315-260 through 262).

5.0740.10 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.

Myers v. State, 839 N.E.2d 1154 (Ind. 2005)
F.S.E. v. State, 993 P.2d 771 (Ok. Crim. App. 1999) *In Re Josue T.*, 989 P.2d 431 (N.M. Ct. App. 1