

5300 SCHOOL SEARCH AND SEIZURE

I. PURPOSE AND PHILOSOPHY

Weber School District seeks to ensure a safe and secure learning environment for students. While students do not shed their constitutional rights at the schoolhouse gates, it is well established that the unique needs of the school environment require a less exacting standard for searching students for unauthorized or illegal material on school property than the probable cause standard applied outside the school context. The purpose of this policy is to define Weber School District students' Fourth Amendment rights and limitations while students are in school or at school-related events. This policy also defines types of searches administrators are authorized to conduct and to distinguish between administrator and law enforcement searches. Procedures for documenting searches and notifying parents of the searches are also included in this policy.

II. POLICY

All students shall be free from unreasonable search and seizure of their persons, clothing, and other personal property in accordance with state and federal law. School authorities have the authority to conduct reasonable searches of students and student property when there is reasonable suspicion to believe that students may be in possession of drugs, including electronic cigarettes, weapons, stolen items, alcohol, and other materials ("contraband") in violation of school policy or state laws. Students who bring contraband onto school grounds may be searched in order to secure the school environment so learning can take place and to protect other students from any potentially harmful effects stemming from the contraband. School property shall remain under the control of school officials and shall be subject to random search. A student's failure to permit lawful searches and seizures as provided in this policy may be considered grounds for disciplinary action.

III. DEFINITIONS

- A. "Contraband" illegal or unauthorized material on school property, including stolen property.
- B. "Electronic Cigarette": an electronic device used to deliver or capable of delivering vapor containing nicotine or another substance to an individual's respiratory system.
- C. "Electronic Device": a privately owned device that is used to electronically communicate, store, send, receive, or reproduce audio, video, text, or any other type of computer or computer-like instrument. District-issued electronic devices are not privately owned and can be searched with or without reasonable suspicion.

- D. "Probable Cause": the legal standard required for law enforcement officers to search individuals suspected of criminal activity.
- E. "Reasonable Suspicion": the legal standard required for administrators to search students for contraband in violation of school rules or policies. The basis for the search must be reasonable at its inception and the search itself must be reasonable in scope and must be individualized to the student being searched.
- F. "School Administrator": the principal of the school and, for purposes of this policy, any member of the administrative team if there is more than one administrator at the school. A School Resource Officer is not considered part of the school administrative team.
- G. "Strip search": whenever a student is asked to remove or manipulate clothing to expose undergarments, or when a student is asked to manipulate undergarments to search for contraband.
- H. "Weapon": means the same as in Policy 5200, namely "a firearm, or an object that in the manner of its use or intended use is capable of causing death or serious bodily injury.

IV. TYPES OF SEARCHES BY ADMINISTRATORS

A. Person or Personal Property Searches

1. A student's person and/or personal property (e.g., purse, backpack, jacket, etc.) may be searched by a School Administrator whenever the administrator has reasonable suspicion to believe that the student is in possession of contraband. School Administrators may require a student to remove items from pockets and other personal effects. School Administrators may ask a student to remove hats, coats, jackets, shoes, and socks so those items can be inspected.
2. Searches will not exceed the scope of the basis for the search. For example, information that a student has contraband in their shoe is not sufficient basis to search the student's electronic device.
3. The authorization to search shall also apply to all situations in which the student is under the jurisdiction of the district, including all students participating in extracurricular activities and athletics, dually enrolled students, and students taking online courses, when applicable.
4. "Pat down" searches of a student's person:

- a) A “pat down” search is permissible by a School Administrator **only** when the School Administrator has reasonable suspicion that the student being searched possesses a weapon, regardless of where the weapon is located on the student’s person, and when law enforcement is not available to conduct a search. Searches based upon reasonable suspicion also apply to law enforcement when it comes to weapons. (Terry v. Ohio).
 - b) If safety requires a “pat down” of a student, whenever possible, the search will be conducted in a private room by an administrator of the same gender as the student being searched and witnessed by one other person.
 - c) A School Administrator may perform a “pat down” of the exterior of the student’s clothing but must refrain from touching students in any other way during the search. Any search more intrusive than a pat down must be conducted by a law enforcement officer.
 - d) Strip searches are not allowed to be conducted by School Administrators.
5. If a School Administrator has reasonable suspicion that a student is hiding contraband (other than a weapon) in their undergarments, the School Administrator will contact the student’s parents or guardian, and not conduct a pat-down or strip search.

B. Lockers and School-Owned Property

- 1. Student lockers, desks, electronic devices issued by the District, and other such property are owned by the school. The school exercises exclusive control over school property and students should not expect privacy regarding items placed in/on school property because school property is subject to search at any time by school officials.
- 2. Students are responsible for whatever is contained in desks and lockers issued to them by the school.
- 3. Periodic general inspections of lockers may be conducted by school authorities for any reason at any time without notice and without student consent.
- 4. Absent reasonable suspicion, a School Administrator may not search a student’s personal property within a locker or desk.

C. Search of Vehicles on School Property

1. Students are permitted to park on school premises as a matter of privilege, not of right. The school retains the authority to conduct routine patrols of student parking lots and inspections of the exteriors of student automobiles on school property.
2. The interiors of student vehicles may be searched whenever a School Administrator has reasonable suspicion. Such patrols and inspections may be conducted without notice and without student consent. Searches of vehicles of staff members or visitors shall be conducted by law enforcement personnel.

D. Electronic Devices

1. Electronic devices including cell phones owned by students may be searched, based on reasonable suspicion, by a school administrator when a school rule or law has been violated. If the rule that is being violated is possession of the phone, searching the phone is not permissible.
2. Searches of a student's cell phone or other electronic devices shall be reasonable in scope. Text messages, emails, photographs, voicemails, and/or applications on a student's cell phone or other electronic devices will be searched only when there is reasonable suspicion to believe evidence of misconduct will be found in that location on the cell phone or electronic device.
3. If there is reasonable suspicion that students are sending nude or semi-nude images or videos to each other at school, or outside of school and it is impacting the educational environment, the school resource officer should be notified as images or videos may contain child pornography. Administrators shall take the students' phone as evidence and turn it over to law enforcement to conduct a search.
4. **Administrators may not, under any circumstances, intentionally view images or videos or ask students to forward or disseminate in any way, images or videos of nude or semi-nude photos as a manner of collecting evidence.**

E. Canine Searches

1. The school administration, in conjunction with local law enforcement, may determine when and, if, a specially trained canine shall be used in the school to search for drugs, weapons, or other contraband.

2. Canine searches shall be used to determine the presence of drugs, weapons, or other contraband in locker areas and vehicles on school property.
3. Canine searches will not be used to search students' persons or personal belongings.
4. School Administrators will follow Weber District's Canine Search Guidelines, attached at the end of this policy.

(See [canine search guidelines](#))

F. Hand-held Metal Detectors

1. School Administrators may not use a hand-held metal detector to search a student unless:
 - a) the student is suspected of having a weapon and the administrator has reasonable suspicion that is individualized to the student being searched and
 - b) law enforcement is not available.

V. CONFISCATION OF CONTRABAND FOLLOWING SEARCH

- A. Any items found during a search may be confiscated by a school administrator.
- B. Electronic cigarettes will be confiscated or disposed of in a manner consistent with Policy 5205.
- C. Other than electronic cigarettes, dangerous and disruptive property confiscated during a school search and investigation, including real or look-a-like weapons, explosives, noxious or flammable materials, controlled substances, imitation substances, drug paraphernalia, alcoholic beverages, or pornographic material will be transferred to law enforcement.

VI. SEARCHES BY LAW ENFORCEMENT OFFICERS

- A. Searches initiated and conducted by law enforcement officers, including School Resources Officers, may be conducted if probable cause exists that a student has engaged in a criminal offense or a well-established exception in the law applies.
- B. SROs may be present during a search initiated and conducted by a school administrator where an administrator has reasonable suspicion to believe a

student has engaged in a criminal offense, but may not participate in the search unless the situation becomes criminal or a safety concern arises.

- C. SROs may not conduct, be present, or assist in a search for contraband that is not illegal and only a violation of administrative policies.

VII. DOCUMENTATION OF THE SEARCH

- A. The school administrator conducting the search shall be responsible for documenting the details of any student or student property search in the District's student information system, including
 - 1. the contraband that is the subject of the search;
 - 2. information received that established the need for the search and the name of the informant, if any;
 - 3. the persons present when the search was conducted;
 - 4. any contraband found during the course of the search, and the disposition of the contraband; and
 - 5. any subsequent action taken.

VIII. PARENT AND OTHER NOTIFICATION

- A. School Administrators will notify parents of all student searches and seizures of property within 24 hours of the search; however, school authorities have no legal obligation to contact parents before detaining and questioning and conducting searches of students.
- B. School Administrators are strongly encouraged to notify parents prior to the end of the school day.
- C. The school administrator conducting the search shall report a student's possession of a dangerous weapon consistent with Utah Code Ann. § 53G-8-510.

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