

**BARRE UNIFIED UNION SCHOOL DISTRICT # 097  
POLICY**

**Code: C 21**

**1st READING: 5/9/2019**

**2nd READING: 6/13/2019**

**ADOPTED: 6/13/2019**

**Search, Seizure, and Interrogation of Students by School Personnel**

It is the policy of the Barre Unified Union School District (BUUSD), herein after referenced as “the Board” or “the District”, in order to provide a safe and orderly school environment, to authorize school administrators to examine all school property and to carry out searches or to seize property of students while on school property or at school related events under the guidelines provided in this policy.

**Scope and General Policies**

- A. This policy applies to searches of students’ persons, possessions, including but not limited to electronic devices, desks, lockers and vehicles by school administration. Desks, lockers, textbooks, technological devices and other materials, equipment or supplies loaned by the school to students remain the property of the school, and may be inspected and searched by school employees without reasonable suspicion and without notice to or the consent of the student.
- B. Searches of students’ persons and/or students’ personal property may be conducted only upon reasonable suspicion that the search will uncover evidence that a student has violated a school rule or policy, or has violated the law, including possession of contraband. Searches will be conducted within the law, meet the requirements of the state and federal constitutions, and in the least invasive manner possible.
- C. If there is a clear and imminent danger to the health and safety of school individuals, or clear and imminent risk of danger to school property (such as a bomb scare), general searches of school property may be allowed under closely supervised conditions that respect individual rights.
- D. Copies of this policy will be distributed to students when they enroll in school, and will be included in the student handbook given to students and parents at the beginning of each school year. This policy is meant to explain the legal rights of the school district, but is not meant to limit them in any way.

**Reasonable Suspicion**

In determining whether “reasonable suspicion” exists, an administrator or faculty member shall consider all relevant information, including the following:

- A. The timeliness of the information that gives rise to the suspicion;
- B. Whether a plausible alternative explanation exists;
- C. Whether any other information exists that independently supports or detracts from the probable reliability of the new information; and
- D. If the information was provided by an informant:

1. Whether the information was directly gathered by the informant, such as by visual observation or overheard conversation, or was indirectly provided by another person to the informant; and
2. Whether the informant has been shown to be or should be considered a reliable source.

### **Definitions**

As used in this policy:

**“Contraband”** means weapons, drugs, and other illegal substances, or other objects which are evidence of a violation of state or federal law or school policy.

**“School property search”** means the search of desks, lockers, textbooks, technological and imaging devices, and other materials, equipment or supplies loaned by the school to a student, including use of personal devices which access school network resources as outlined in the G4 Responsible Computer, Network and Internet Use.

**“Possessions search”** means a search of the student’s pockets, bags, purses and other movable possessions performed by requiring a student to empty those items or allow review of contents of an item including but not limited to photos, texts or other electronic files and communications on an electronic device, an imaging device, or a computer.

**“Vehicle search”** means a search of a student’s vehicle.

**“Person search”** means a search of a student’s person and may require the student to loosen or remove outer clothing, consistent with item D under of Types of and Conditions for Searches below.

**“Student”** means a student of the member school district or of another school who is participating in school district activities or is otherwise on school property.

### **Persons Who May Perform Searches**

- A. Searches shall normally be conducted by trained school administrators. However, when an administrator is not reasonably available or cannot perform a search within a reasonable time, such as on a field trip, a designated member of the faculty may perform a search.
- B. Searches and seizures by law enforcement officials shall be as outlined in Policy F11: Searches, Seizures, and Interrogation of Students by Law Enforcement Personnel or Other Non-School Personnel.

### **Types of and Conditions for Searches**

The extent of each search shall be directly related to the basis of the search.

- A. School administrators may inspect and search school property including but not limited to lockers and/or other school property and network resources accessed by or assigned to the student or used by the student without reasonable suspicion and without notice to or the consent of the student

- B. Search of a student's possessions shall normally be conducted by requiring the student to empty his/her pockets, bag(s), purse(s), and other movable possessions or to allow review of items including but not limited to photos, texts, or other files or communications stored in or on technological devices, provided that there is reasonable suspicion to believe that the contraband is located in the place searched. The person conducting the search may pat down or otherwise search the student's clothing, may personally examine the purse, bag, backpack or technological device to ensure that all items have been removed or shown and may search the items removed from the purse, bag, or backpack as necessary and appropriate. A search of a student's possessions shall be witnessed by a second person who is an administrator or by a member of the faculty or staff when on a trip.
- C. A vehicle search shall be made only when there is reasonable suspicion to believe that contraband is located in the vehicle; and the vehicle is either on school grounds or the vehicle is being used to transport students to or from a school sponsored event. A vehicle search shall be witnessed by a second person who is an administrator or by a member of the faculty or staff when on a trip. A vehicle search shall normally be conducted by examination of the unlocked spaces of a vehicle. A student may be required to open locked spaces in a vehicle to permit examination of the contents therein upon reasonable suspicion to believe contraband is present within the locked space. If a student refuses to open a locked space, the vehicle may be detained on school grounds until police can be summoned and a warrant obtained.
- D. In circumstances where there is reasonable suspicion to support the search of a student's person, the superintendent or his or her designee may consult with legal counsel when considering whether or how to conduct a search of a student's person. Strip searches by school personnel are prohibited.
  - 1. In circumstances where there is reasonable suspicion to support the search of a student's person, and the search does not require the student to partially remove outer layers of clothing, the search of a student's person shall be:
    - i. Conducted by a person of the same gender as the student, and
    - ii. Witnessed by a third person who is an adult of the same gender as the student, and
    - iii. To the degree that circumstances allow, conducted in a manner that maximizes the student's interest in modesty and privacy.
  - 2. In circumstances where there is reasonable suspicion to support the search of a student's person, and such search would require the student to undress, the school district shall consult with legal counsel on how to proceed. If there is reasonable belief that there is a possibility of imminent harm to the student or the school community, law enforcement shall be called.

### **Actions Following Search**

- A. Any suspected contraband found during a search shall be confiscated. Any suspected illegal substances or other items evidencing a crime found shall be turned over to law enforcement officials.
- B. The principal or designee shall notify the student's parent(s) or guardian(s) that a search has been conducted and that evidence has been provided to the police.

### **Questioning of Students**

School district employees may detain students to question them where they have reasonable grounds to suspect that it will assist them in gathering evidence or information regarding possible violations of board policy or school behavior expectations. The Administration may act on information related to violations of school rules received from outside law enforcement personnel. School officials are not required to notify parents of questioning of students. A School Resource Officer (SRO) is not considered a school district employee for the purpose of interrogations; therefore, students may decline at any time to be interviewed by the School Resource Officer. A student may decline to be interviewed by outside law enforcement personnel.

#### *Legal Reference(s):*

*New Jersey v. T.L.O.*, 469 U.S. 325, 105 S. Ct. 733 (1985)

*Vernonia School District v. Acton*, 515 U.S. 646, 115 S. Ct. 2386 (1995)

*Board of Education v. Earls*, 122 S. Ct. 2559 (2002)

*Doe v. Little Rock School District*, 380 F.3d 349 (8th Cir. 2004)

*Phaneuf v. Fraikin*, No. 04-4783 (2d Cir. May 19, 2006)

*Wofford v. Evans*, 390 F.3d 318 (4th Cir. 2004)

*Shuman v. Penn Manor School Dist.*, 422 F.3d 141 (3d Cir. 2005)

*In re Randy G.*, 110 Cal. Rptr. 2d 516 (Cal. 2001)

*Mislin v. City of Tonawanda Sch. Dist.*, 2007 WL 952048, \*10 (W.D.N.Y. 2007)

*Bisignano v. Harrison Cent. Sch. Dist.*, 113 F. Supp. 2d 591, 596-97 (S.D.N.Y. 2000).

#### *Cross References:*

*Searches, Seizure, and Interrogation of Students by Law Enforcement Personnel or Other Non-School Personnel ( C 21 and C 42 )*

*Student Conduct and Discipline ( C20 )*

*Substance Use ( C 2 )*