

RSU #63

- a. NEPN/NSBA Code:** **JIH**
- b. Title:** **Student Searches**
- c. Author:**
- d. Replaces Policy:**
- e. Date Approved:** **01/23/2017 RSU #63**
- f. Previously Approved:** **05/03/2004**
- g. Policy Expiration:** **Review as Needed**
- h. Responsible for Reviewed:** **Superintendent & Policy Committee**
- i. Date Reviewed:** **12/05/2016 Superintendent**
12/05/2016 Policy Committee
- j. References:**
- k. Narrative:**

- I.** Students are entitled to the guarantees of the Fourth Amendment, and they are subject to reasonable searches and seizures. School officials are empowered to conduct reasonable searches of a particular student and school property when there is reasonable cause to believe the student may be in possession of drugs, weapons, alcohol, stolen property, or other materials in violation of school district policy or state law.
- II.** Student lockers, desks, and other such property are owned by RSU 63. The school district exercises exclusive control over district property. A student should not expect privacy regarding items placed in school property (i.e., desks, lockers, etc.) because district property is subject to search at any time by school officials. Such a search should be done with specific information or expectation of a result and not without suspicion or on a random basis. Students should realize that there are no expectations of privacy rights when they use RSU 63 computers, printers, and computer networks.
- III.** According to the decision of the Supreme Court of the United States, “a student may be searched if there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated either the law or rules of the school.” A particular student’s effects are also subject to being searched by school officials and are subject to the same rule. Effects may include automobiles located on school property. Student vehicles may not be searched by school officials, but school buses and vans may be searched. Law enforcement must be called in to perform any search of private vehicles. The scope of the search must be “reasonably related to the objectives of the search and are not excessively intrusive in light of the age and sex of the student and the nature of the infraction. If school officials conclude that a more intrusive search is needed (i.e., involving removal of clothing that is not outerwear), they shall call the parents/guardians of the student involved and possibly report their suspicions to law enforcement, who will be responsible for any such search. School officials will not conduct strip searches. Group searches will not be conducted, other than in exceptional circumstances and with the approval of the Superintendent.
- IV.** The right of students to be free from unreasonable searches and seizures is protected by

the Fourth Amendment of the U.S. Constitution. In order for law enforcement officials to conduct a search, they must have probable cause to believe the student/students has/have violated the law. School officials, however, are subject to somewhat less stringent standards. The U.S. Supreme Court announced a two-part test in 1985 which it has applied to all searches by school officials since that time. The two-part test is:

- A.** Was the search justified at its inception?
- B.** Was the search conducted reasonably related in scope to the circumstances which justified the search?

If both of these questions can be answered affirmatively, the search will conform to the Fourth Amendment. An analysis of these requirements is discussed below.

In general, the order for a search to be “justified at its inception,” there must be reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school. A search will be permissible in scope if it is reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction. These are obviously very subjective standards that must be evaluated on a case-by-case basis.

- V.** Although the courts have not expressly required individualized suspicion as an essential element of a reasonable search, the schools carry a heavy burden to justify any search which is not supported by individualized suspicion.
 - A.** The court has held general searches to be unreasonable and there is no case in which such a search has been deemed constitutional. Accordingly, even canine sniffing and random drug tests of the general student population are unreasonable and therefore unconstitutional, absent any extraordinary circumstances. If there is reason to suspect that a particular student is in possession of drugs, it would be permissible to search his/her belongings in an attempt to locate the contraband, but it would not be reasonable to search the entire class to determine whether other students have drugs.
 - B.** Student behavior is often the basis for reasonable suspicion to conduct a search, and the courts have been willing to defer to the expertise of school officials in evaluating individual student conduct. In some cases, courts have permitted searches of students based on suspicions generated by:
 - 1.** Students being out of their authorized areas.
 - 2.** A student being seen in the vicinity of a theft.
 - 3.** A student exchanging money and then giving evasive answers to questions.
 - 4.** A student with a history of past problems being near other students exchanging money.

5. A student exhibiting signs of intoxication or drug use.
- C. While this certainly gives school officials considerable latitude, a search will be invalid if the school officials involved cannot connect the suspicious behavior to a reasonable belief that the search will turn up evidence of specific conduct.
- D. In the case of information provided by informants, school officials may use only such information as the basis of a search if, based on the totality of the circumstances, reliance on such information is reasonable. Caution should be exercised particularly in anonymous tip cases because there is no inherent reliability in anonymous tips. If, on the other hand, the caller identifies himself/herself and gives specific information which can be either corroborated or is otherwise reliable, conducting a search based upon this information may be justified.
- E. It is noteworthy that courts have found actions taken in reliance on student tips to be reasonable. Obviously, a tip based upon personal knowledge will be more reliable than a rumor or hearsay. Additionally, if school officials know of a reason the student would have to lie under the circumstances, further investigation may be necessary before initiating a search, depending upon the seriousness of the alleged misconduct. In other words, a tip that a student is carrying a gun and wants to kill his girlfriend might well justify a search under any circumstances.
- VI. Assuming individualized suspicion exists, there is a question of what type of search is appropriate under the circumstances. School administrators' searches of a person, such as a directive to empty pockets, or a purse or backpack search, are usually reasonable. Pat downs are more intrusive and should therefore be used as a later resort. Strip searches are so invasive, they will most likely be considered unreasonable and should be avoided, unless deemed necessary and are performed in accordance with Section III of this policy.
- VII. Likewise, drug testing is very intrusive, depending on the procedures used, and should therefore be avoided by school/district administrators. Law enforcement should make any decision to perform these.
- VIII. The scope of a search can expand as the search proceeds, and will probably be upheld if not overly intrusive. In some cases, locker searches and searches of student vehicles by law enforcement are justified as long as they are reasonably related to the basis for suspicion. For example, searching a wallet for a gun is not reasonable, nor is it "reasonably related in scope to the circumstances that justified the search."