

**Public Schools Branch
OPERATIONAL PROCEDURE**

STUDENT INVESTIGATION AND SEARCH	
<i>Policy Section</i> Programs and Services	<i>Procedure Number</i> 409.1
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<p>PSB Procedure 409.1 Student Investigations and Searches, September 17, 2019 <i>Replaces:</i> PSB Procedure 703.1 Relations with Law Enforcement and Child Protection Authorities, September 17, 2019</p>	

1.0 DEFINITIONS

- 1.1 Alcohol – all substances defined as liquor in the *Liquor Control Act*.
- 1.2 Drug – a controlled substance which is prohibited under the *Controlled Drugs and Substances Act*, cannabis as defined by the *Cannabis Control Act*, or a prescribed/over-the-counter medication which is misused, or any other misused substance which causes a mind or body altering effect, such as but not limited to solvents, correction fluids, glue, gasoline, aerosol spray, and cleaning fluids.
- 1.3 Drug paraphernalia – any equipment, product, material or accessory that is used for making, using or concealing drugs. Drug paraphernalia may include but is not limited to, rolling papers, bongos, e-cigarettes (vapes), pipes, needles, syringes, etc.
- 1.4 Investigation – an inquiry or examination conducted in relation to a potential breach of the law or a Public School Branch policy or procedure, and may include a search.
- 1.5 Prohibited substances and objects – include but are not limited to alcohol, cannabis, drugs, drug paraphernalia, stolen property, weapons, offensive material, or any material inappropriate for a school setting.
- 1.6 Reasonable grounds – information that an average person may rely on in considering whether there is reason to believe that it more likely than not that something has occurred or will occur. A mere suspicion is not reasonable grounds but definite proof is not necessary. (See section 3.0 for more information on reasonable grounds.
- 1.7 School bus – a school bus or other vehicle that is under the management of an education authority and used primarily for the conveyance of students.
- 1.8 School climate – the environment, values and relationships found within a school. A positive school climate exists when all members of the school community feel safe, included and accepted, and actively promote positive behaviours and interactions. Equity, inclusion and respect are critical components embedded in the learning environment of a positive school climate.
- 1.9 School premises – a building or property under the management or operation of an education authority that is used in whole or in part for the instruction of students and includes a school bus.
- 1.10 School property – any property owned by the school which may be provided to a student for their use including but not limited to, desk, locker, cubby.

- 1.11 School-sponsored activity – any activity, whether conducted on or off school premises, that is sponsored, recognized or authorized by a principal or the Public Schools Branch.
- 1.12 Search – an investigation of a student and an examination of a student’s personal belongings or school property provided for a student’s use.
- 1.13 Student personal belongings – items such as a mobile phone or other personally-owned device, backpack, clothing, vehicle, item/object, etc.
- 1.14 Weapon – anything used or intended for use in causing death or injury to persons, whether designed for such purpose or not; or anything used or intended for use for the purpose of threatening or intimidating any person.

2.0 INTRODUCTION

- 2.1 The Public Schools Branch is committed to creating a positive school climate and providing a safe and caring learning and working environment for students and staff.
- 2.2 In accordance with the *Education Act*, teachers and school principals are responsible for maintaining order and discipline in the school, on school premises and during school sponsored activities, and attending to the health, comfort and safety of students under their supervision.
- 2.3 The Public Schools Branch prohibits the possession, on school premises or at a school sponsored activity, of substances or objects which may threaten public safety. Such materials or objects may include, but are not limited to, alcohol, cannabis, illicit drugs, drug paraphernalia, vapes, stolen property, weapons, offensive material, or any material inappropriate for a school setting.
- 2.4 From time-to-time, an investigation of an incident on school premises or at a school sponsored activity may involve a search of a student’s personal belongings or any school property provided by the school for the student’s use.
- 2.5 It is only reasonable to conduct a search when the school administrator or designate has reasonable grounds to believe that there has been a breach of applicable laws or Public Schools Branch policies and procedures and that the search would reveal evidence of that breach. (See section 3.0 for more information on reasonable grounds.)
- 2.6 Each school year, the principal will ensure that students and staff are informed of the Student Investigations and Searches policy and procedure and the school’s right to search school property which includes desks, lockers, and other storage areas provided by the school. Only school issued or authorized locks may be used to secure school lockers and the school shall retain a master key to all locks.
- 2.7 Unless there is an immediate threat to the safety or security of a person or the school, a search conducted under the Student Investigations and Searches policy and procedure will be conducted by the principal or designate.

3.0 REASONABLE GROUNDS FOR A SEARCH

- 3.1 The courts have held that a warrant is not essential in order to conduct a search of a student’s personal belongings by a school. The courts have recognized that schools are in the best position to access information given to them and relate it to the situation existing in their school.
- 3.2 The following may constitute reasonable grounds to conduct a search:
 - a) Information received from one student or other individual considered to be credible;
 - b) Information received from more than one student or more than one individual;and

- c) A teacher's, staff person's or principal's own observations.
- 3.3 The compelling nature of the information and the credibility of these or other sources will be assessed by the school in the context of the circumstances existing at a particular school. Random or arbitrary searches or searches on groundless suspicion will likely be in contravention of the Canadian Charter of Rights and Freedoms.

4.0 SCHOOL INVESTIGATIONS

- 4.1 An investigation, including reasonable questioning of a student, may be based upon suspicion that a school rule has been violated or that the safety or security of a person or the school may be at risk.
- 4.2 A principal or designate may question a student to further an investigation conducted for the purpose of maintaining order and discipline in the school, on school premises, or during a sponsored or approved school activity. When it is evident that a situation under investigation may involve illegal activity, the principal or designate shall contact the Director of Student Services to determine if the matter is serious enough to warrant police involvement.
- 4.3 Where it is determined that police involvement is warranted, the parent/guardian of the student will be notified and the principal or designate shall refrain from any further investigation until the police arrive. (See section 6.0 for more information on police investigations and searches.)

5.0 SCHOOL SEARCHES

- 5.1 Where there is a need to conduct a search and the principal or designate is not comfortable conducting such a search, the principal or designate shall contact the Director of Student Services for advice. (See section 6.0 for more information on police investigations and searches.)
- 5.2 A search shall only be conducted when there are reasonable grounds to believe that a student is in possession of a substance or object that is prohibited by school policies or procedures.
- 5.3 Only the principal or their designate shall be permitted to conduct a search or seize prohibited substances or objects, unless there is an immediate threat to the safety of a person or persons or the school premises.
- 5.4 The principal or designate shall exercise reason and judgement in determining the scope of any search. Searches shall be conducted in a sensitive manner and be minimally intrusive. Due consideration shall be given to the age and gender of the student and the gravity of the infraction.
- 5.5 All searches shall be conducted in the privacy of the principal's office or another suitable room designated by the principal or designate. Where need for a search is indicated, the student involved shall be given the opportunity to produce the prohibited substance or object which they are suspected of possessing.
- 5.6 All searches shall be conducted in the presence of the principal or designate and one additional adult witness. At least one of the adults must be the same gender with which the student identifies. A search shall be conducted by a school employee that is the same gender with which the student identifies. The search by the principal or designate shall be limited to requesting that outer layers of clothing be removed (e.g. coats, hats, gloves, outer shirts, shoes, and socks. This also includes the request to empty pockets, open and empty contents of bags and other similar requests. A more intensive search of a student's person shall not be conducted by the principal or designate. If such a search

is believed to be necessary, the principal or designate shall notify the Director of Student Services and refer the matter to the police for assistance or advice.

- 5.7 Searches of school property provided to a student for their use and a student's personal belongings shall be conducted in the presence of the relevant student.
- 5.8 If a vehicle brought on school property is owned by a third party such as a parent of the student, consent of the parent to search the vehicle shall be obtained before the search is conducted.
- 5.9 In appropriate circumstances, where a prohibited substance or object is discovered as a result of a search, the principal or designate shall promptly contact the parent/guardian of a student under 18 years of age who is the subject of such investigation. The principal or designate shall maintain a record of their attempts to contact the student's parent/guardian.
- 5.10 Any prohibited substance or object discovered as the result of a search will be confiscated and retained in a secure location. In all cases, a record shall be kept of all seized substances or objects.
- 5.11 The use of a police dog in conducting a search of school property will require prior approval from the Public Schools Branch.

6.0 POLICE INVESTIGATIONS AND SEARCHES

- 6.1 Where the police find it necessary to search the school premises or school property provided for a student's use, the principal or designate will accompany the police on the search. The police must obtain and provide the necessary legal authority to conduct the search before any search takes place.
- 6.2 Student investigations by the police shall be conducted off school premises and outside normal school hours, unless otherwise determined by police.
- 6.3 When a student is to be interviewed, searched, or removed by police, the principal or designate shall retrieve the student in person. The public address system (PA system) shall not be used unless the student is not in their expected location.
- 6.4 When a student investigation by police is conducted on school premises, it is the responsibility of the police to inform all persons of their legal rights before any interview, search, or removal takes place.
- 6.5 When the police find it necessary to interview or search a student on school premises, or remove a student from school premises, the legal authority of the police to do so shall be requested by the principal or designate before any interview, search, or removal takes place.
- 6.6 Unless otherwise directed by the police, the principal or designate will be present during any interview, search, or removal of a student on school premises.
- 6.7 The principal or designate will encourage any student who is subject to an investigation by police on school premises to have an adult present during any interview or search by police. In cases where the police wish to interview or search a student who is under the age of 18 years on school premises, the principal or designate, unless otherwise directed by police, will promptly contact the parent/guardian of the student to advise that an interview or search has been requested by the police, invite the parent/guardian to be present at the interview or search, and, where the parent/guardian is not able to be physically present, invite the parent/guardian to speak with the student before the interview or search is conducted.
- 6.8 When a student under the age of 18 years is removed from school premises by the police, the principal or designate, unless otherwise instructed by police, will promptly

notify the parent/guardian of the student.

- 6.9 Where the principal or designate is not able to make contact with the parent/guardian of a student, a record of all attempts to make contact must be maintained.

7.0 RECORDKEEPING

- 7.1 The principal or designate shall keep a record detailing the circumstances surrounding an investigation.
- 7.2 The principal or designate shall document a search using the Student Search Form **(Appendix A)** which shall be retained in the student's CUM file for one school year. Recorded information shall include details of the allegation, names of relevant parties and possible witnesses, times of relevant incidents, times and places of investigation, parties searched or interviewed, seized substances or objects, efforts made to contact parents/guardians, and details of police involvement, if any.
- 7.3 A copy of Appendix A shall be provided to the Director of Student Services.
- 7.4 Access to, and disclosure of, such information is subject to the *Freedom of Information and Protection of Privacy Act*.

8.0 APPENDICES

- 8.1 Appendix A – Student Search Form

9.0 CROSS REFERENCE

- 9.1 PSB Operational Policy 409 - Student Investigations and Searches
- 9.2 PSB Operational 605.1 Safe and Caring Learning Environments
- 9.3 PSB Operational Procedure 606.1 Alcohol and Drugs
- 9.4 *Education Act*
- 9.5 Canadian Charter of Rights and Freedoms
- 9.6 *Youth Criminal Justice Act*
- 9.7 *Liquor Control Act*.
- 9.8 *Controlled Drugs and Substances Act*
- 9.9 *Cannabis Control Act*
- 9.10 *Freedom of Information and Protection of Privacy Act*

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