

Students

MOUNT PLEASANT COTTAGE SCHOOL UNION FREE SCHOOL DISTRICT**SUBJECT: SEARCHES AND INTERROGATIONS OF STUDENTS BY SCHOOL OFFICIALS**

Students are protected by the Constitution from unreasonable searches and seizures. A student may be searched and contraband/prohibited items seized on school grounds or in a school building by an authorized School District official only when the School District official has reasonable suspicion to believe the student has engaged in or is engaging in proscribed activity which is in violation of the law and/or the rules of the school (i.e., the *District Code of Conduct*).

Determination of Reasonable Suspicion

The reasonableness of any search involves a twofold inquiry:

- 1) Whether the action was justified at its inception, i.e., did the school official have reasonable grounds for suspecting the search will turn up evidence that a student has violated or is violating either the law or the rules of the school; and
- 2) Whether the search as actually conducted was reasonably related in scope to the circumstances which justified the interference in the first place, i.e., the measures adopted are 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.

To carry out this Regulation, the School District retains the right to examine its property at any time. In addition, school officials may search students and search and/or seize student property upon reasonable grounds for suspecting that the search will reveal evidence of a violation of law or a school rule. In evaluating the reasonable grounds for a search, designated school officials should consider the reliability of the information received, the availability of corroborating evidence, the severity of the suspected infraction, and the intrusiveness of the search to be carried out.

Factors to Consider

The reasonableness of any search depends upon the particular facts of each case and a determination as to whether the scope of the search is justified in relation to the circumstances that motivated the search.

Factors to be considered in determining whether reasonable suspicion exists to search a student include:

- 1) The age of the student;
- 2) The student's school record and past history;

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- 3) The predominance and seriousness of the problem in the school where the search is directed;
- 4) The probative value and reliability of the information used as a justification for the search;
- 5) The school official's prior knowledge of and experience with the student; and
- 6) The urgency to conduct the search without delay.

Scope of Search

School officials are authorized to conduct searches of students and their belongings if the authorized school official has reasonable suspicion to believe that the search will produce evidence that the student has violated or is violating the law and/or the *Code of Conduct*.

School officials, whenever possible, will seek the least intrusive means to conduct a search to safeguard the privacy interests of students in their person and property.

If reasonable suspicion exists to believe that a student has violated or is violating the law and/or school rules, it is permissible for an authorized school official to search that student's outer clothing, pockets, or property. The search may include, but is not limited to, the student's outer clothing such as a jacket or coat, pockets, backpack, and/or purse. Whenever possible, searches will be conducted by a staff member of the same sex as the student, and, whenever possible, with another staff member, present as a witness. Whenever practicable, searches will be conducted in the privacy of administrative offices and students will be present when their possessions are being searched.

Strip Searches

A strip search is a search that requires a student to remove any or all of his or her clothing, other than an outer coat or jacket. Strip searches are intrusive in nature and are almost never justified. If school officials have highly credible evidence that such a search would prevent danger or yield evidence, a search may be conducted under exigent circumstances. In the alternative, if school authorities believe there is an emergency situation that could threaten the safety of others, the student shall, to the extent practicable, be isolated and secured. Police and parents will be contacted immediately.

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SUBJECT: SEARCHES AND INTERROGATIONS OF STUDENTS BY SCHOOL OFFICIALS (Cont'd.)**Searches and Seizure of School Property**

Student desks, lockers, textbooks, computers, and other materials, supplies or storage spaces loaned by the school to students remain the property of the school, and may be opened and inspected by school employees at any time. The purpose of these searches, when they occur, is to ensure the safety of students, faculty and staff, enhance school security and prevent disruptions of the learning environment. Searches have been proven to have a deterrent effect on student behavior. Students have no reasonable expectation of privacy with respect to school property; and school officials retain complete control over such property. This means that student desks, lockers, textbooks, computers, and other materials, supplies or storage spaces may be subject to search and/or seizure of contraband/prohibited items at any time by school officials, without prior notice to students and without their consent. Laptops, iPads, and other mobile devices given to students by the District remain District property and are subject to search by District officials. However, a student's personal belongings contained within a locker, desk, etc. are subject to the reasonable suspicion standard for searches by school officials.

Parent Notification

The student's parent or guardian shall be notified if any illegal, prohibited, or dangerous articles or materials are found in the student's locker, vehicle, or other property or possessions, or on the student's person, as a result of a search conducted in accordance with this Regulation.

Documentation of Searches

The designated school official conducting the search shall be responsible for the custody, control and disposition of any illegal, prohibited or dangerous items taken from the student. The school official or his/her designee shall clearly label each item taken from the student and retain control of the item(s) until the item(s) is turned over to the police or secured by alternate means.

This school official shall also be responsible for promptly documenting information about the search including, but not limited to, the reasons for the search, the purpose of the search, the type and scope of the search, and the results of the search.

Questioning of Students by School Officials

School officials have the right to question students regarding any violations of school rules and/or illegal activity. In general, administration may conduct investigations concerning reports of misconduct which may include, but are not limited to, questioning students, staff, parents/guardians, or other individuals as may be appropriate and, when necessary, determining disciplinary action in accordance with applicable due process rights.

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Should the questioning of students by school officials focus on the actions of one particular student, the student will be questioned, if possible, in private by the appropriate school administrator. The student's parent/guardian may be contacted; the degree, if any, of parental/guardian involvement will vary depending upon the nature and the reason for questioning, and the necessity for further action which may occur as a result.

The questioning of students by school officials does not preclude subsequent questioning/interrogations by police authorities as otherwise permitted by law. Similarly, the questioning of students by school officials does not negate the right/responsibility of school officials to contact appropriate law enforcement agencies, as may be necessary, with regard to such statements given by students to school officials.

School officials acting alone and on their own authority, without the involvement of or on behalf of law enforcement officials (at least until after the questioning of students by school authorities has been conducted) are not required to give the so-called "Miranda warnings" (i.e., advising a person, prior to any custodial interrogations as defined in law, of the right to remain silent; that any statement made by the individual may be used as evidence against him/her; and that the individual has the right to the presence of an attorney, either retained or appointed) prior to the questioning of students.

If deemed appropriate and/or necessary, the Superintendent/designee may also review the circumstances with School District legal counsel so as to address concerns and the course of action, if any, which may pertain to and/or result from the questioning of students by school officials.

School Resource Officers

Districts may employ School Resource Officers (SROs), law enforcement officers who work within the school building. There are different types of SROs: those employed solely by the District, those who are employed by local law enforcement and in a few instances, those who are off-duty law enforcement officers. SROs, acting in their capacity as law enforcement, are held to a different search standard than school officials. Searches by law enforcement SROs must be justified by probable cause. Searches by District-employed SROs are held to the District standard of reasonable suspicion. District staff need to clearly establish and document who is initiating and conducting a search - law enforcement or the District. In every case, the appropriate standard for such a search must be met.

Dissemination of Information

Copies of this Regulation will be distributed to students when they enroll in school, and will be included in the *District Code of Conduct* available to students and parents at the beginning of each school year.