

OPPORTUNITIES FOR LEARNING-DUARTE

STUDENT SEARCH AND SEIZURE – POLICY AND PROCEDURES

Updated December 2024

Opportunities For Learning-Duarte (School) strives to ensure the safety of its students. In order to do this, School officials may need to question and/or search a student and their belongings in accordance with this policy. The purpose of this policy is to outline administrative procedures for a school official conducting searches of a student's person, backpack, bag, and/or other belongings for weapons, stolen property, drugs, alcohol, or other contraband, and the confiscation of such items, on School property or at School activities.

A "school official" for purposes of this policy refers to a school administrator.

Students should not have an expectation of privacy on school property, including, but not limited to lockers, desks, cubbies, and other areas. School may access school property at any time. Nonetheless, School recognizes that unreasonable searches of students and their belongings are a violation of privacy. No student shall be searched without reasonable suspicion, in an unreasonable manner, or in violation of applicable law.

The well-established legal standard applicable to a school official's search of a student or the student's property is a "reasonableness" standard. This standard has two requirements:

1. "Justified in Inception": There must be reasonable suspicion that the student has violated or is violating the law or a school rule and that the search will reveal evidence of the student's violation. Reasonable suspicion requires specific and articulable facts (e.g., "The student smelled like marijuana") together with rational inferences based on those facts. A search of a student is unlawful if it is predicated on mere curiosity, rumor, or hunch.
2. "Reasonable in Scope": The search must be related to the violation and not excessively intrusive, given the student's age and gender and the nature of the violation. If an item is found that leads to reasonable suspicion that additional violation(s) have occurred and/or are present, the search may then be extended in accordance with this policy and applicable law. If the initial search produces no evidence of any violation, there should be no extension of the search.

STUDENT SEARCH PROCEDURES

1. Whenever practicable, the School official shall conduct the search in the presence of another School official.
2. No search will be conducted absent the existence of reasonable suspicion at the inception of the search.
3. Whenever practicable, searches of students shall be conducted outside the presence of other students.
4. Whenever practicable, searches of students shall be conducted by a person of the same gender as the student. If the School is aware or the student states a preferred gender different from their assigned gender, a School official who identifies with the student's stated gender will conduct the search. Non-binary students will be searched by a School official of any gender or otherwise in accordance with the student's preference, whenever practicable.

5. Whenever practicable and appropriate, the student shall be present if their belongings are being searched. Caution should be exercised in the search of a student's belongings to minimize any impact on the student's belongings.
6. Searches that involve removing or arranging any or all of the clothing of a student to permit a visual inspection of the underclothing, breast, buttocks, or genitalia of the student are strictly prohibited. Cavity searches are also prohibited.
7. If a School official finds illegal, unauthorized, or contraband materials after a search, such materials should be turned over to the proper legal authorities if practicable and as appropriate under the circumstances.
8. The School official shall be responsible for the prompt recording in writing of each student search, including the reasons for the search; objective, factual information received that established the need for the search; the name of the informant, if any; the person(s) present when the search was conducted; any substances or objects found and the disposition made of them; any subsequent action taken or support needed. The "Student Related Incident Report" and "Student Statement of Incident" forms must be utilized, and any witness declarations should be taken, if necessary. If appropriate under the circumstances, the school official shall photograph any substances or objects found during the search that violate the law or a School rule so the photograph(s) may be used during the discipline process.

USE OF WEAPONS DETECTION SYSTEMS

School finds that the presence of weapons on School property or at School activities threatens School's ability to provide the safe and orderly learning environment to which School's students and staff are entitled. School also finds that stationary weapons detection systems offer a reasonable means to keep weapons out of School property, maintain safety, and mitigate the fears of students and staff. School officials may use stationary weapons detection systems and technology such as metal detectors, AI-based security and detection systems, or other scanning methods as reasonably necessary to keep weapons out of School property. In consideration of laws addressing protections against unreasonable searches and seizures, School officials shall ensure that weapons detection systems are used in a neutral, circumspect, uniform, consistent and non-discriminatory manner. School officials shall ensure that signs are posted at all resource centers at which weapons detection systems are to be used to explain that anyone may be scanned for guns, knives, or other illegal weapons when on School property or at School activities. Any search of a student following activation of the weapons detection system shall follow the Student Search Procedures described above and be limited to the detection of the cause of the activation.

STUDENT DISCIPLINE

The School's discipline policy shall be followed to address and evaluate any misconduct and determine if suspension or expulsion is warranted. The School administrator may establish a behavior action plan to document the actions taken by the School following the incident.

ADDITIONAL PROCEDURES

- School officials can briefly stop a student and question them. Mere questioning does not constitute a search. However, questioning should never be done in an arbitrary, capricious, discriminatory, or harassing manner or in a way that otherwise violates school policies.
- Police officers must have "probable cause" to search a student. For School officials, the standard is "reasonable suspicion," as delineated above, which is a lower standard than probable cause.

- School officials do not need a warrant or consent before searching a student who is under their authority.

SEARCHES OF PERSONAL ELECTRONIC DEVICES

School shall follow all applicable laws regarding searches of students' personal electronic devices. A student's personal cell phone or other personal electronic device shall not be searched by a School official unless the student provides specific consent to the search and there is reasonable suspicion at the inception of the search that the student has violated or is violating the law or a School rule and that the search will reveal evidence of the student's violation. Searches of electronic devices must be narrow in scope and limited to the types of information and areas within the electronic device that may reasonably contain evidence of the student's violation of law or School rules.

If a School official has a good faith belief that there is an emergency involving danger of death or serious physical injury to any person that requires access to a student's electronic device, and the student refuses to provide specific consent to the search, the School official may request the assistance of law enforcement officials to conduct a search of the electronic device in accordance with applicable law.

Nothing in this policy prohibits School from confiscating a student's personal electronic device without searching its contents if the student's use or possession of the electronic device is in violation of School's policies.