

DESCRIPTOR TERM: Students	Millard District Policy File Code: 6110 Approved: 04-11-19
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STUDENT SEARCH & SEIZURE

A. Philosophy

In order to preserve a safe environment for all students and school personnel, the Board of Education recognizes that school officials must have the authority to conduct reasonable searches of students and student property. However, students have legitimate expectations of privacy, and the Fourth Amendment's prohibition on unreasonable searches and seizures applies to searches conducted by District employees. Nevertheless, "students within the school environment have a lesser expectation of privacy than members of the population generally." *Vernonia Sch. Dist. v. Acton*, 515 U.S. 646, 657 (1995). Therefore, school officials engaging in searches of students and student property shall abide by the guidelines set forth in this section. All contraband discovered in a search by school officials should be immediately confiscated and turned over to law enforcement officers if school officials have reason to believe the contraband is related to the commission of a criminal act.

B. Reasonableness

1. To protect the privacy rights of students, searches by school officials must be reasonable under all the circumstances. To be reasonable, a search must be justified at its inception and reasonably related in scope to the circumstances that justified the search in the first place.
 - a. A search is justified at its inception if there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating a law, policy, or rule.
 - b. Once justified at its inception, a search will be reasonable in scope if the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the student's age and gender and the nature of the infraction.
 - c. Where school officials initiate a search and police involvement is minimal, the reasonableness standard is applicable. The ordinary warrant requirement and probable cause standard will apply where "outside" police officers initiate, or are predominantly involved in, a school search of a student or student property for police investigative purposes.

Myers v. State, 839 N.E.2d 1154 (Ind. 2005)

F.S.E. v. State, 993 P.2d 771 (Ok. Crim. App. 1999)

In Re Josue T., 989 P.2d 431 (N.M. Ct. App. 1999)

C. Student Lockers

1. Students have no right or expectation of privacy in school lockers. While lockers are under the joint control of students and the school, lockers remain the exclusive property of the District and may be searched at any time by school officials.
2. Once a locker is opened for search, any search of student belongings contained within the locker must comply with the reasonableness requirement for searches outlined in Section B.1 of this policy.

D. Searches of Personal Belongings

1. Personal belongings (coats, hats, backpacks, book bags, purses, wallets, notebooks, gym bags, etc.) and vehicles located on school property may be searched by school officials consistent with the reasonableness requirement outlined in Section B.1 above. The student may be asked to open personal belongings and vehicles, and to turn over personal property for search by a school official. All searches of student property by school officials shall be witnessed by an objective third party (such as another administrator, teacher, or police officer) to observe that the search is not excessively intrusive.
2. School disciplinary procedures may be brought against a student who fails to comply with the reasonable requests of a school official.

E. Searches of a Person

1. School officials shall make sure that in addition to satisfying the reasonableness requirement outlined in Section B.1 above, the search also meets the following guidelines:
 - a. The search shall be conducted in a private area of the school.
 - b. Except for the nonintrusive actions identified in Subsection E-1-c, the search shall be conducted by a school official of the same gender as the student being searched and observed by an objective third party of the same gender as the student being searched (i.e., administrator, teacher, or police officer).
 - c. School officials may ask the student to remove his/her hat, coat, shoes and socks, turn pockets inside out, and roll up sleeves to see if the student is hiding contraband.
 - d. Strip searches are prohibited. If this limited search does not turn up suspected contraband and school officials have reasonable

suspicion that the student is concealing contraband in his/her inner clothing (i.e., hiding drugs, weapons, or other contraband underneath shirt, pants, or underwear), law enforcement officers shall be notified immediately. School officials shall, in a timely manner, contact the student's parents to inform them that a search was conducted by a law enforcement officer.

F. Student Electronic Devices

Browsing the content of a student's phone, tablet, or other electronic device is considered a search and may be conducted only consistent with the reasonableness requirement outlined in Section B.1 above. Mere presence of the device, even in violation of a class or school rule, is insufficient to justify looking at the device's content unless reasonable suspicion exists that the content itself will reveal violation of law or policy.

G. Vehicles

The School District regulates the use of school property, and may also regulate vehicles brought onto school property. School officials may undertake surveillance of school property and of vehicles located on the property. An official who has reasonable grounds to believe that a search of a vehicle will turn up evidence of alcoholic beverages, controlled substances, illegal weapons, stolen property, or other violation of either law, or the rules of the school, may ask the driver of the vehicle to open the vehicle and may inspect the vehicle in the driver's presence. If a driver fails to comply with the requests of the officials, or if an inspection turns up any of the above mentioned evidence, the official may take measures reasonably calculated to maintain the safety and proper control and management of the school, including disabling the vehicle until police or parents can be summoned.

H. Canine Searches

The sniffing of a locker or vehicle by a trained canine for the detection of drugs, explosives, etc. may be conducted only by law enforcement officers. The school may detain students or restrict their movements during a canine search. Students may also be asked to relinquish personal items such as backpacks to facilitate the search. However, a canine should not be used to directly search a student unless a warrant is provided or parental permission is obtained prior to the search. Any search based on a dog's alert must follow the requirements and procedures for searches of a student's person or property as set forth in this section.

I. Documentation of Searches

1. School officials must thoroughly document the details of any search conducted of a student's person or property, especially in the case of drugs, alcohol, tobacco, weapons, or other items of criminal or significant

importance. Documentation should be made at the time of the search, or as soon as possible thereafter, and should provide the information outlined in Exhibit 4, Documentation of Student Search, including, but not limited to, the following:

- a. the reasonable suspicion giving rise to the search and its scope;
- b. the name of the administrator(s) conducting / witnessing the search;
- c. the date, time, and location of the search;
- d. the area searched;
- e. a list of all items found during the search and statement as to their confiscation and/or safekeeping;
- f. disciplinary action, if any, taken against the student; and
- g. information regarding the attempts of school officials to notify parents about the search.

J. Contraband

1. The fruits of a search conducted under this policy may be:
 - a. turned over to the police for inspection;
 - b. used in a judicial proceeding;
 - c. retained by a school official for use in a school disciplinary proceeding.

K. Distribution of Policy

A copy of this policy in electronic and printed form shall be made available to parents and students upon enrollment.

[Utah Admin. Rules R277-615-4\(4\) \(May 10, 2017\)](#)

Millard School District Documentation of Student Search

Prior to conducting a student search, as defined in Millard District Policy 6110 – Student Search and Seizure, a school administrator must articulate the reasonable suspicion upon which the search is conducted. A search must be: (1) justified at its inception; and (2) reasonable in its scope.

JUSTIFIED AT INCEPTION

First, a search is justified at its inception if there are reasonable grounds for suspecting that the search will reveal evidence that the student has violated or is violating a law, policy, or rule. For example, reasonable grounds may be established through eyewitness accounts of individuals known to be credible.

REASONABLE IN SCOPE

Second, a search is reasonable in its scope if the measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the student's age and gender and the nature of the infraction. For example, if a student is reasonably suspected of giving out contraband pills, he/she may be reasonably suspected of carrying them on his/her person, and a search of his/her backpack and outer clothing would be justified. However, a search of the contents of his/her cellphone would not be justified because pills cannot be found by viewing the electronic data in his/her phone.

ESTABLISH REASONABLE SUSPICION PRIOR TO SEARCH

To ensure that a search is both justified at its inception and reasonable in its scope, the administrator must be able to clearly articulate and respond to the following questions before a student search may occur. If the administrator conducting the search cannot clearly articulate and respond to the questions, the search cannot take place.

1. What law, policy, or rule is the student suspected of violating?
2. What evidence does the school possess that gives rise to the suspected violation?
3. What item related to the violation is being sought?
4. How will the sought item provide further evidence of the violation identified in question 1 above?
5. What is the area(s) to be searched?
6. Why is the sought item suspected of being presently located in the place to be searched?
7. How has the age, gender, and maturity of the student been taken into consideration?
8. What is the nature of the infraction as compared to the intrusiveness of the search?

DOCUMENTATION FOLLOWING SEARCH

After a student search has been conducted, the following information must be documented in Millard School District's Student Information System regardless of whether prohibited items are found or the student receives disciplinary action.

1. Responses to the eight questions that established reasonable suspicion prior to the search.
2. Name of administrator(s) conducting/witnessing the search.
3. Date, time, and location of the search.
4. Description of the area searched.
5. List of all items found during the search and statement as to their confiscation and/or safekeeping.
6. Disciplinary action, if any, taken against the student.
7. Information regarding the attempts of school officials to notify parents about the search.