

STUDENT INTERROGATIONS, SEARCHES AND ARRESTS

Code **JIH** Issued **6/05**

Purpose: To establish the basic structure for conducting searches of students or their property.

The board by this policy recognizes that both state law and the Fourth Amendment to the United States Constitution protect citizens, including students, from unreasonable searches and seizures. The board accordingly directs all district personnel to conduct searches and seizures on district property or during district sponsored events in accordance with applicable federal and state law. The board's express intention for this policy is to enhance security in the schools, prevent students and other persons on school grounds from violating board policies, school rules and state and federal laws, and to ensure that legitimate privacy interests and expectations are respected consistent with the need of the district to maintain a safe environment conducive to education.

Searches

As authorized by state law, district and school administrators and officials may conduct reasonable searches on district property of lockers, desks, vehicles and personal belongings such as purses, book bags, wallets and satchels, with or without probable cause, subject to the limitations and requirements of law.

The district administration is directed to ensure compliance with S.C. Code Ann. § 59-63-1150, which requires that administrators must receive training in the "reasonableness standard" under existing law and in district procedures regarding searches. The district administration is further authorized and directed to establish procedures to be followed in conducting searches. The board further directs the district administration to ensure that notice is posted in compliance with S.C. Code Ann. § 59-63-1160 advising that any person entering the premises of any school in the district will be deemed to have consented to a reasonable search of his/her person and effects.

All searches must comply fully with the "reasonableness standard" set forth in New Jersey v. T.L.O., 469 U.S. 329 (1985). This reasonableness standard recognizes that balancing the privacy interests of students with the substantial need of teachers and administrators to maintain order in the schools does not require that searches be based on probable cause to believe that the subject of the search has violated or is violating the law. Rather, the appropriateness of a search depends on the reasonableness, under all the circumstances, of the search. Determining the reasonableness of any search will involve a two-fold inquiry. First, a district or school administrator or official must determine that the search is justified at its inception, and second, that the scope and conduct of the search is reasonably related to the circumstances justifying the search at its inception. In other words, all searches hereunder must be determined to: (1) have reasonable grounds for suspecting that the search will disclose evidence the student or other person has violated, or is violating, either the law or the rules of the district or school; and (2) be limited in scope and conduct to the extent that the measures utilized to carry out the search are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the person searched and the nature of the suspected infraction of the law or district or school rules.

The board further prohibits any district employee, including district administrators and officials, from conducting a strip search.

PAGE 2 - JIH - STUDENT INTERROGATIONS, SEARCHES AND ARRESTS

Searches involving the use of metal detectors will be conducted in accordance with the procedures outlined in policy JIHC and administrative rule JIHC-R.

Any contraband items or evidence of a violation of law or district or school rules may be retained by school officials and/or turned over to an appropriate law enforcement agency, as required by law.

Contacting law enforcement

As required by S.C. Code Ann. § 59-24-60, school administrators will contact law enforcement immediately upon notice that a person is engaging or has engaged in activities on school property or at a school sanctioned or sponsored activity which may result, or results in, injury or serious threat of injury to the person, another person or his/her property. Such reportable activities or conduct may include, but are not limited to, the examples of criminal conduct referenced in Level III of administrative rule JICDA-R (Student Code of Conduct).

The board recognizes that when law enforcement authorities are contacted, pursuant to S.C. Code Ann. § 69-24-60, the law enforcement authorities must make the determination whether they will conduct an investigation into the matter. If the law enforcement authorities determine an investigation is appropriate, school officials will make reasonable efforts to discuss the scope and methods of the investigation with the law enforcement authorities as they affect school operations in an effort to minimize any disruption to the school and its students.

School officials may contact law enforcement authorities for assistance in addressing concerns other than those which must be reported pursuant to § 59-24-60. In such circumstances, the principal or his/her designee will confer with the superintendent or his/her designee prior to involving law enforcement authorities other than a school resource officer. The superintendent or his/her designee will consult with appropriate school officials and law enforcement authorities to determine that the proposed involvement and methods of law enforcement are reasonable, consistent with this policy, and will have a minimally disruptive effect on school operations and student rights.

Interrogations by school personnel and school resource officers

Administrators and teachers, as well as school resource officers, may question students about any matter pertaining to the operation of a school and/or enforcement of its rules. The questioning will be conducted discreetly and under circumstances which will avoid, to the extent practical under the circumstances, unnecessary embarrassment to the person being questioned. School resource officers will act consistently with law enforcement guidelines should any routine questioning turn into a criminal investigation. Any student who answers falsely or evasively or who refuses to answer an appropriate question may be disciplined.

Interrogations by law enforcement

When law enforcement officers find it necessary to question a student during the school day regarding matters not connected to the school, the principal or his/her designee will cooperate with law enforcement and will request to be present, so long as his/her presence does not impede the investigation. The principal or his/her designee should make a reasonable attempt to contact the student's parent/legal guardian and request his/her presence. Should this attempt fail, the principal or his/her designee will continue to make a reasonable attempt to notify the student's parent/legal guardian that law enforcement questioning took place on school grounds. However, school officials will not act in such a manner which will interfere with an ongoing law

PAGE 3 - JIH - STUDENT INTERROGATIONS, SEARCHES AND ARRESTS

enforcement investigation. Additionally, normal visitor's protocol must be followed by law enforcement officials at all times. Interrogations of students by law enforcement officials should generally take place in a private area, whether or not the principal or his/her designee is present.

Custody or arrest

Law enforcement authorities have the right to enter the school to take a student into custody or to make a lawful arrest of a student provided that they act pursuant to lawful procedure. If a student is arrested or taken into custody at school, school officials will make a reasonable effort to notify the parents/legal guardians immediately.

Adopted 7/1/75; Revised 8/13/91, 3/8/94, 4/4/95, 6/14/05

Legal references:

A. U. S. Supreme Court Cases:

1. New Jersey v. T.L.O. --U.S.--, 105 S. Ct. 733 (1985).

B. United States Constitution, Fourth Amendment.

C. South Carolina Constitution:

1. Article I, Section 10.

D. S.C. Code, 1976, as amended:

1. Section 59-5-65 Minimum standards for student conduct, attendance and scholastic achievement; enforcement.
2. Section 59-24-60 - Requires administrators to contact law enforcement.
3. Section 59-63-1110 et seq. - Search of persons and effects on school property.
4. Section 20-7-7205 - Requires law enforcement to notify principal of child's school for certain offenses; confidentiality of information.

E. S. C. Acts and Joint Resolutions:

1. 1994 Act #393, p. 4097 - Allows searches.