

# GUIDELINES FOR SEARCHES OF STUDENTS

A copy of the *Student Rights and Responsibilities Handbook, 2001 Revision*, on "Search and Seizure" is attached.

The purpose of these Guidelines is to list some of the Do's and Don'ts regarding student searches.

## 1. SEARCH BY POLICE OFFICER

There are many times when a search by an administrator, not a police officer, is appropriate.

However, there are times when a police officer should be required to do a search in the interest of safety. A list of the recommended police officer searches follows:

- A. Students suspected of having drugs that may include toxic substances or needles.
- B. If there is even a slight indication that the student may possess a firearm or a knife.
- C. The student may reasonably be considered a threat to assault the searcher during the search.
- D. It is suspected the student may attempt to escape, and put the student or others in danger.
- E. The search is for an item that may constitute a dangerous item for which the handler needs expertise.

## 2. REASONABLE SUSPICION

We are all aware that search of a student is justified based upon reasonable suspicion. Law enforcement officers, outside of the school context, need probable cause to initiate a search. If a police officer is acting as an agent of the school, only reasonable suspicion is required. If the officer is acting under police authority, the higher standard applies. The U. S. Supreme Court in *T.L.O.*, 469 US at 340, found searches based on "reasonable suspicion" \* \* \* "when special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable." In *T.L.O.*, public school officials found drugs, drug paraphernalia and evidence of illegal drug sales in the course of a warrantless search of the purse of a student found smoking in a school restroom. The Court said the "special need" requirement was met. For "reasonable suspicion" it is necessary that the student being searched has violated a school rule or the law, and that the search be reasonably likely to elicit evidence of such violation. *Id.* at 338.

Keep in mind school administrators can stop students and ask questions without reasonable suspicion, just as they can call a student into the corridor to discuss a school-related matter or summon a student to the principal's office for such purposes. Such actions are not detentions within the meaning of the Fourth Amendment. (*The People v. Randy G*, Calif. S.Ct. August 13, 2001.)

### **3. LOCKER SEARCHES**

Students do not have the right to any expectation of privacy lockers since the school owns the lockers. However, District policy requires that before a general inspection of lockers or desks can be conducted, the general inspection must be announced in advance. Therefore, it is necessary to have a reason of individualized suspicions for a locker search with no advance warning. The policy requires that the student be given the opportunity to be present when the search of personal possessions is conducted, with exceptions as stated in the policy.

### **4. SEARCH OF PERSONAL POSSESSIONS**

As stated in the policy, for search of a student's property there must be reasonable suspicion. The student will be given the opportunity to be present when the search of personal possessions is conducted, so long as a student is in attendance and if her or his presence would not endanger the safety of the student or others.

### **5. SEARCH OF A STUDENT'S PERSON**

The District has strong policies surrounding the search of a student's person. A "pat down" by an administrator is not recommended unless the following procedure does not answer the questions raised by the reasonable suspicion. Instead of strip search (a student is ordered to remove or rearrange clothing to reveal part of a body that would normally be covered), the student should be asked to search

the belt area of the clothing, where the belt is loosened and turned inside-out, by the student. The student should be asked to turn pockets inside-out and pat down her/himself in all cases where contraband or a weapon or dangerous material may be concealed by clothing.

Police officers who have a right to arrest may search incident to the arrest, including a strip search when circumstances reasonably justify it. Two primary allowable reasons to search at the time of arrest would be the removal of weapons or the seizure of evidence from the person arrested in order to prevent its concealment or destruction.

Police strip searches can be supported legally even though they may be subject to criticism. School official strip searches are very difficult to defend legally.

No 4J employee should ever perform a body cavity search on a student (anal or vaginal openings). The authority for this extreme intrusion on a student's privacy belongs with the legal system and trained professionals.

*(revised 1/29/04)*