

STUDENT SEARCH AND SEIZURE

The Southwestern Consolidated School Corporation of Shelby County School Board recognizes its obligation to balance the privacy rights of its students with its responsibility to provide students, faculty, staff, and authorized visitors with a safe, hygienic, and alcohol/drug-free, learning environment. *See Policy C450.*

Definitions

As used in this Policy:

"Administrator" means an employee with supervisory authority over teachers and includes Department Chairpersons at the Junior High and High School level;

"Individualized reasonable suspicion" means a belief based upon circumstances which, when taken together in the context of the school building or activity in which they occur, make the student or place searched more likely than a student or place selected at random to contain or possess evidence of a violation of state or federal law, a violation of a school rule, or a condition that endangers the safety or health of the student or others. Information provided by other persons may be considered by an administrator as a part of the administrator's individualized reasonable suspicion where the administrator has reason to believe the person offering the information is credible.

"Superintendent" means the Superintendent, any administrator designated by the Superintendent, and any faculty or staff member assisting an administrator; and

"Law Enforcement Officer" means a person not employed by the Corporation who is: a police officer, sheriff, constable, marshal, or prosecuting attorney; a deputy of any of these persons but not a special deputy who is not an employee of those persons; an investigator for a prosecuting attorney; a conservation officer; an enforcement officer of the Alcoholic Beverage Commission; a Federal Bureau of Investigation special agent; a United States Marshals Service marshal or deputy; a United States Secret Service special agent; a United States Fish and Wildlife Service special agent; a United States Drug Enforcement Agency agent; a Bureau of Alcohol, Tobacco, and Firearms agent; a United States Forest Service law enforcement officer; a United States Department of Defense police officer or criminal investigator; a United States Customs Service agent; a United States Postal Service investigator; or a National Park Service law enforcement commissioned ranger. The term does not include private detectives, investigators employed by attorneys and non-governmental organizations, and the law enforcement officers listed above when not acting within the scope of their governmental job description.

Scope of This Policy

Searches of students pursuant to this Policy shall be permitted in all situations in which the student is subject to school disciplinary rules pursuant to I.C. 20-33-8-14 including:

- 1) on school grounds immediately before or during school hours, or immediately after school hours, or at any other time when the school is being used by a school group;
- 2) off school grounds at a school activity, function, or event; or
- 3) traveling to or from school or a school activity, function, or event.

Standards for Search and Seizure

In balancing a student's privacy interest against the Board's obligation to maintain a safe, alcohol/drug-free working and learning environment, the Board directs the Superintendent to utilize the following principles:

1. Searches of Storage Areas Provided for Student Use

Storage areas such as lockers and desks are school property provided for student use, subject to the right of the Superintendent to search the storage area and the items in the storage area at any time without individualized reasonable suspicion. Students shall not have an expectation of privacy in any locker or other storage area on school property and shall not be permitted to deny entry to an administrator by the use of a lock or other device.

2. Searches of a Student's Outer Clothing and Items in the Student's Immediate Possession

A search of a student's outer clothing (coats, shirt, blouse, shoes, pants pockets and waistband) and items in the student's immediate possession (back packs, purses, wallets, book bags) shall be based upon individualized reasonable suspicion.

Searches of a Student's Inner Clothing or Person

A search of a student's inner layer of clothing (pants, skirt, shirts/blouse, sweater, sweatshirt) or a search of the student's person involving the removal of the inner layer of clothing (i.e., clothing that would not otherwise be seen in the classroom such as underwear) is not permitted.

3.

4. Use of Breath-Test Instruments

Administrators are authorized to arrange for the use of breath-test instruments for the purpose of determining if a student has consumed an alcoholic beverage. A student shall be offered a breath test when an administrator has individualized reasonable suspicion to believe the student has consumed an alcoholic beverage. It is not necessary for the test to determine a blood-alcohol level since the Board has established a zero tolerance for alcohol use.

5. Searches of Student Vehicles

Permission for a student to bring a vehicle on school property shall be conditional upon consent of the search of the vehicle and all containers inside the vehicle by an administrator without individualized reasonable suspicion. The student and the owner of the vehicle shall have no expectation of privacy in any vehicle or in the contents of any vehicle on school property. The Superintendent shall prepare a written agreement consistent with this Policy to be signed each school year by each student driving to school and the owner of each vehicle driven to school. Each vehicle brought on school property by a student shall display a decal showing that the written agreement permitting the search of that vehicle has been signed.

Student vehicles parked off school property but falling within the scope of this Policy shall be subject to search by a school administrator with individualized reasonable suspicion.

6. Law Enforcement Assistance in School Searches

The Superintendent may request the assistance of a law enforcement agency in implementing any aspect of this Policy. Where law enforcement officers participate in a search on school property or at a school activity pursuant to a request from the Superintendent, the search shall be conducted by the law enforcement officers in accordance with the legal standards applicable to law enforcement officers and Board Policy.

The Board authorizes the use of specially-trained dogs to detect the presence of drugs or devices such as bombs on school property under conditions established in the Superintendent's administrative guidelines. Prior to the use of specially-trained dogs, the Superintendent shall make a finding setting forth the circumstances which warrant the use of specially-trained dogs, and the training, reliability, and competence of the dogs and their handlers.

7.

8. Disposition of Seized Items

Anything found in the course of a search pursuant to this Policy which constitutes evidence of a violation of a law or a school rule or which endangers the safety or health of any person shall be seized and utilized as evidence if appropriate. Seized items of value shall be returned to the owner if the items may be lawfully possessed by the owner. Seized items of no value and seized items that may not lawfully be possessed by the owner shall be destroyed or turned over to the County Sheriff.

Questioning of Students

1. Access to Students in Investigations of Suspected Abuse or Neglect

A properly identified employee or agent of the Department of Child Services (DCS) or law enforcement officer investigating suspected abuse or neglect shall be permitted to question and examine a student at school without notice by the school administration to the student's parent/guardian. A private place at school shall be provided for this interview. Corporation employees shall not participate in the interview or examination unless requested by the DCS worker or law enforcement officer.

2. Access to Students Without a Court Order in Investigations Other Than Suspected Abuse or Neglect

A law enforcement officer acting without a court order or warrant who requests to question or examine a student at school or while a student is supervised by a school employee should be asked by the building principal to explain the reason for the questioning and the reason(s) why the questioning should take place at school. The building principal should determine whether the officer's stated objectives are appropriate. If the questioning is permitted to occur, the building principal will ask the officer if there is any reason why the student's parent/guardian should not be given notice and the opportunity to be present for the questioning or examination.

If the law enforcement officer provides a compelling reason why the student's parent/guardian should not be notified or the questioning cannot be delayed until the parent/guardian is notified and present during questioning, the building principal shall allow the officer to question the student.

If the law enforcement officer does not state a valid objective for questioning the student, the officer shall be denied access to the student. If the officer states an appropriate objective for questioning the student but does not state a valid reason for proceeding with the questioning without the parent/guardian present, the building principal shall call the parent/guardian and delay the officer's access to the student until the parent/guardian can arrive.

3.

4. Access to a Student Pursuant to Court Order

A law enforcement officer with a court order specifically directed to school officials ordering that the officer be permitted to have access to or to question a specific student at school shall be permitted to question the student in a manner consistent with the order.

5. Presence of Building Principal During Questioning

Except in the case of an investigation into suspected abuse or neglect covered by paragraph 1 above, a law enforcement officer must provide a valid reason for questioning a student alone. If the building principal does not agree that the law enforcement officer has stated a valid reason for interviewing a student alone, the building principal shall attend and may participate in questioning of a student. If the questioning becomes abusive or otherwise inappropriate and the parent/guardian is not present, the building principal shall end the questioning. This provision applies to questioning with or without a court order.

Record Keeping

An administrator participating in a search shall promptly record in writing the following information for each search pursuant to this Policy:

- 1) the information upon which the search was based, i.e. the individualized reasonable suspicion;
- 2) the time, date, location, students, or places searched, and persons present;
- 3) a description of any item seized and its disposition; and
- 4) the time and date of notice to the parent or guardian in the case of the search of the person of a student.

Administrative Guidelines

The Superintendent shall prepare administrative guidelines to implement this Policy.

I.C. 20-8.1-5.1-25
U.S. Constitution, 4th Amendment

Southwestern Consolidated School Corporation of Shelby County

Adopted: [date]
Revised: [date]