

Addison Northwest Supervisory Union Policy

SECTION: STUDENTS

CODE: F3

TITLE: SEARCH, SEIZURE AND INTERROGATION OF STUDENTS BY SCHOOL PERSONNEL

It is the policy of the school boards of the Addison Northwest Supervisory Union to provide safe learning environments and extend the useful life of school facilities through maintenance of school property that assure the safety and enjoyment of students, school employees, and the general public

In order to carry out this policy, the school boards retain the right to examine their property at any time. In addition, school officials may search students and search or seize student property upon reasonable suspicion that a school rule has been or is being violated.¹ In evaluating the reasonable grounds for a search, the school officials should consider the reliability of the information received, the availability of corroborating evidence, the severity of the suspected infraction, and the intrusiveness of the search to be carried out.²

Copies of this policy will be distributed to students when they enroll in school and/or will be included in the student handbook given to students and parents at the beginning of each school year. This policy is meant to explain the legal rights of the school district but is not meant to limit them in any way.

Searches and Seizure of School Property

Desks, lockers, textbooks, computers, and other materials or supplies loaned by the school to students remain the property of the school and may be opened and inspected by school employees at any time. When prohibited items are found in school property they will be confiscated and a report will be made to the Principal who will determine whether further investigation is warranted.

Search and Seizure of Student and Student Property

Searches of students' persons, personal effects and vehicles³ may be conducted where there is reasonable suspicion at the time of initiating the search that it will reveal evidence of a violation of school rules. The scope of the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the student's age, sex and the nature of the infraction. School officials shall make reasonable efforts to notify a student's parents/guardians when the student is the subject of a search or seizure.

Searches that are based on a suspicion of a violation of law, and not a violation of school rules, will only be permitted by school officials when there is probable cause to believe a crime has been committed. School resource officers, if any, performing law enforcement duties are obligated to follow the rules governing law enforcement officials in criminal matters.

A search of a student's person will be conducted by a school employee of the same sex and *always* in the presence of another school employee. Strip searches are overly intrusive for the purpose of most student searches. As such, they will not be conducted by school personnel.⁴

Students who participate in school-sponsored extracurricular activities *may* be required to submit to drug testing by the school as a condition of participation in those activities even without a particularized suspicion of drug use.⁵

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Interrogation of Students

School district employees may detain students to question them regarding violations of school rules if reasonable in light of the possible rule violation and the degree of suspicion.⁶ Interrogations of students by a school employee should be conducted in the presence of at least one other school employee. School officials may act on information related to violations of school rules received from outside law enforcement personnel. School officials shall make reasonable efforts to notify parents of interrogations of students.⁷

A School Resource Officer is not considered a school district employee for the purpose of interrogations; therefore, students may decline at any time to be interviewed by a School Resource Officer. A student may also decline to be interviewed by outside law enforcement personnel.

¹ *New Jersey v. T.L.O.* 469 U.S. 325, 105 S. Ct. 733 (1985), makes clear that school officials have more leeway to conduct searches of students than do law enforcement officials. Accordingly, they do not need to believe that a law has been violated before conducting a search. However, random suspicion less searches of student property are not permitted. *Doe v. Little Rock School District*, 380 F.3d 349 (8th Cir. 2004).

² An example of a search that was not justified is described in *Phaneuf v. Fraikin*, No. 04-4783 (2d Cir. May 19, 2006). The court held that a strip search was unreasonable when the principal failed to corroborate another student's report that the student had hidden marijuana in her pants. Neither the discovery of cigarettes in the student's purse, nor the fact that the student had previously been disciplined for unrelated action could be used as a basis to suspect the presence of drugs.

³ Schools may obtain blanket permission to search vehicles that students drive to school and park in the school parking lot by requiring students to consent to such inspections as a condition of obtaining a permit for parking on school grounds. Without consent of this sort, school officials who wish to search student vehicles would need reasonable suspicion that the search will provide evidence of a violation of school rules.

⁴ Given the nature of the ongoing relationship between students and school employees, school districts should consider whether they want to allow school employees to conduct strip searches or not. On the one hand, allowing school employees to conduct such searches allows potentially dangerous materials to be discovered quickly. On the other hand, such searches may seriously affect the student's future attitude toward the school.

⁵ *Vernonia School District v. Acton*, 515 U.S. 646, 115 S. Ct. 2386 (1995), upheld the use of random drug testing for student athletes. *Board of Education v. Earls*, 122 S. Ct. 2559 (2002), extended the use of random drug testing to middle and high school students participating in other competitive extracurricular activities, such as choir or debate club. In both cases the intrusion into the student's privacy was considered minimal where school employees listened outside the bathroom stall while the student provided a urine sample for testing. Additional precautions should be taken to protect the results of the tests and to protect the student's medical privacy.

⁶ These guidelines come from *Shuman v. Penn Manor School Dist.*, 422 F.3d 141 (3d Cir. 2005). At least one jurisdiction has taken a broader view of the power of school officials to question students, stating that school officials may interrogate students freely as long as the questioning is not arbitrary, capricious, or harassing. *In re Randy G.*, 110 Cal. Rptr. 2d 516 (Cal. 2001). Since it is unclear which approach will be followed in Vermont, this policy states the more restrictive view.

⁷ *Wofford v. Evans*, 390 F.3d 318 (4th Cir. 2004). Although parental notification is not required for interrogations, there may be obligations under the school's discipline or suspension policies that require notification.

Date Revised/Adopted: June, 2008

Legal Reference(s):

New Jersey v. T.L.O., 469 U.S. 325, 105 S. Ct. 733 (1985)
Vernonia School District v. Acton, 515 U.S. 646, 115 S. Ct. 2386 (1995)
Board of Education v. Earls, 122 S. Ct. 2559 (2002)
Doe v. Little Rock School District, 380 F.3d 349 (8th Cir. 2004)
Phaneuf v. Fraikin, No. 04-4783 (2d Cir. May 19, 2006)
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Cross References:

Interrogation or Searches of Students by Law Enforcement Officers or Other Non-School Personnel (F4)
Student Conduct and Discipline (F1)
Student Substance Abuse (F7)