

Davis Joint USD

Board Policy

Search And Seizure

BP 5145.12

Students

The Governing Board ~~of Education~~ is fully committed to promoting a safe learning environment and, to the extent possible, eliminating the possession and use of weapons, illegal drugs, and other controlled substances by students on school premises and at school activities. As necessary to protect the health and welfare of students and staff, school officials may search students, their property, and/or district property under their control and may seize illegal, unsafe, or otherwise prohibited items.

(cf. 0450 - Comprehensive Safety Plan)

(cf. 3515 - Campus Security)

(cf. 3515.3 - District Police/Security Department)

(cf. 5131 - Conduct)

(cf. 5131.7 - Weapons and Dangerous Instruments)

(cf. 5144.1 - Suspension and Expulsion/Due Process)

The Board urges that employees exercise discretion and good judgment. When conducting a search or seizure, employees shall act in accordance with law, Board policy, and administrative regulation.

(cf. 0410 - Nondiscrimination in District Programs and Activities)

(cf. 1312.1 - Complaints Concerning District Employees)

(cf. 5145.3 - Nondiscrimination/Harassment)

The Superintendent or designee shall ensure that staff who conduct student searches receive training regarding the requirements of the district's policy and administrative regulation and other legal issues, as appropriate.

(cf. 4131 - Staff Development)

(cf. 4231 - Staff Development)

(cf. 4331- Staff Development)

Individual Searches

School officials may search any individual student, his/her property, or district property under his/her control when there is a reasonable suspicion that the search will uncover evidence that he/she is violating the law, Board policy, administrative regulation, or other rules of the district or the school. Reasonable suspicion shall be based on specific and objective facts that the search will produce evidence related to the alleged violation. The types of student property that may be

searched by school officials include, but are not limited to, lockers, desks, purses, backpacks, student vehicles parked on district property, cellular phones, or other electronic communication devices.

Any search of a student, his/her property, or district property under his/her control shall be limited in scope and designed to produce evidence related to the alleged violation. Factors to be considered by school officials when determining the scope of the search shall include the danger to the health or safety of students or staff, such as the possession of weapons, drugs,

or other dangerous instruments, and whether the item(s) to be searched by school officials are reasonably related to the contraband to be found. In addition, school officials shall consider the intrusiveness of the search in light of the student's age, gender, and the nature of the alleged violation.

Employees shall not conduct strip searches or body cavity searches of any student. (Education Code 49050)

Searches of individual students shall be conducted in the presence of at least two district employees, one of which shall be an administrator.

The principal or designee shall notify the parent/guardian of a student subjected to an individualized search as soon as possible after the search.

(cf. 5145.11 - Questioning and Apprehension)

Searches of Multiple Student Lockers/Desks

All student lockers and desks are the property of the district. The principal or designee may conduct a general inspection of school properties that are within the control of students, such as lockers and desks, on a regular, announced basis, with students standing by their assigned lockers or desks. Any items contained in a locker or desk shall be considered to be the property of the student to whom the locker or desk was assigned.

~~Use of Metal Detectors~~

~~The Board believes that the presence of weapons in the schools threatens the district's ability to provide the safe and orderly learning environment to which district students and staff are entitled. The Board also believes that metal detector searches offer a reasonable means to keep weapons out of the schools and mitigate the fears of students and staff.~~

~~The Superintendent or designee shall use metal detectors at district schools as necessary to help provide a safe learning environment. He/she shall establish a plan to ensure that metal detector searches are conducted in a uniform and consistent manner.~~

Legal Reference:

EDUCATION CODE

32280-32289 School safety plans
35160 Authority of governing boards
35160.1 Broad authority of school districts
48900-48927 Suspension and expulsion
49050-49051 Searches by school employees
49330-49334 Injurious objects

PENAL CODE

626.9 Firearms
626.10 Dirks, daggers, knives or razor

CALIFORNIA CONSTITUTION

Article I, Section 28(c) Right to Safe Schools

COURT DECISIONS

Redding v. Safford Unified School District, (9th Cir. 2008) 531 F.3d 1071
B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260
Jennings v. Joshua Independent School District, (5th Cir. 1989) 877 F.2d 313
O'Connor v. Ortega, (1987) 480 U.S. 709
New Jersey v. T.L.O., (1985) 469 U.S. 325
Horton v. Goose Creek Independent School District, (5th Cir. 1982) 690 F.2d 470
Zamora v. Pomeroy, (10th Cir. 1981) 639 F.2d 662

ATTORNEY GENERAL OPINIONS

83 Ops.Cal.Atty.Gen. 257 (2001)
75 Ops.Cal.Atty.Gen. 155 (1992)

Management Resources:

NATIONAL INSTITUTE OF JUSTICE PUBLICATIONS

The Appropriate and Effective Use of Security Technologies in U.S. Schools: A Guide for Schools and Law Enforcement Agencies, 1999

WEB SITES

CSBA: <http://www.csba.org>
California Attorney General's Office: <http://caag.state.ca.us>
California Department of Education, Safe Schools: <http://www.cde.ca.gov/lr/ss>
National Institute of Justice: <http://www.ojp.usdoj.gov/nij>

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