



Superintendent's Circular

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STUDENT SEARCH PROCEDURES

This circular will remain in effect unless rescinded or superseded by a subsequent version

School leaders, principals, and other administrative personnel are responsible for enforcing the Student Code of Conduct and for establishing a safe and secure environment for learning in the schools under their supervision. The United States Supreme Court in the case of New Jersey v. T.L.O., 469 U. S. 325 (1985) has issued a decision that affects how school personnel may enforce school rules and maintain an atmosphere conducive to teaching and learning.

The Supreme Court's decision established constitutional standards for student searches by school officials and school employees. Specifically, the Court ruled that the Fourth Amendment to the United States Constitution, which prohibits unreasonable searches and seizures by government employees, is not violated when public school administrators and teachers conduct student searches if there are reasonable grounds to believe that the search will yield evidence of either a violation of law, a violation of school rules, or both.

In announcing its ruling, the Court rejected the school board's argument that school officials, like parents, are exempt from the requirements of the Fourth Amendment. At the same time, the Court rejected the student's claim that school officials must obtain warrants or meet the more rigorous "probable cause" standard, applicable to searches by law enforcement officials, before conducting student searches on school property. Rather,

the Court struck a balance between the student's legitimate expectations of privacy in the school setting and the school's equally legitimate need to maintain an environment in which learning can take place. The Court held that the "legality of a search of a student should depend simply on the reasonableness, under all the circumstances, of the search."

To be legal, a student search must be reasonable in two respects. First there must be reasonable suspicion to believe that the student has in their possession evidence tending to show either a violation of law or a violation of school rules. To reasonably suspect something, school officials must have facts of sufficient quantity and certainty to establish that the suspicion is likely to be true. Mere suspicion, hearsay, or a single isolated fact, unsupported by further evidence, is generally not enough to meet the reasonable suspicion standard. Second, the scope of the search must be reasonable in relation to the intrusion on the student's privacy. There must be a likelihood that the area searched will yield the item(s) being sought.

The determination of whether a search is reasonable is a question of judgment without definite benchmarks. School officials must exercise common sense and good judgment to ensure that student searches conform to the "reasonableness" standard.

In conducting student searches, school personnel should adhere to the following guidelines:

1. Only administrators who are authorized under Boston Public Schools' Code of Conduct to suspend students from school should conduct student searches. The authority to conduct student searches should be limited to school leaders, principals, other administrative officials, and personnel specifically designated by school leaders, heads of

schools, principals, and other administrative personnel to suspend students.

2. If the school administrator believes that a student may have in their possession a firearm, weapon, dangerous object, or drugs, or otherwise fears that a search would jeopardize their safety, the administrator should not search the student until the student has notified the Safety Services Department to be present during the search.

It should be noted that the Supreme Court specifically did not decide in the T.L.O. case what standard should apply to student searches conducted by school officials in conjunction with or at the behest of a law enforcement agency. However, the Court noted that the higher standard of “probable cause” has been applied to student searches involving law enforcement agencies by a lower federal court. Thus, it may be expected that Massachusetts courts will closely scrutinize student searches conducted by school officials in conjunction with police officers. Consequently, such searches may be deemed reasonable only if based upon the more stringent probable cause standard. However, the presence of a police officer or safety specialist for the purpose of ensuring the safety of the administrator should not alone trigger the higher standard.

3. Authorized personnel should search only students of the same sex. All searches must be conducted in the presence of another staff member of the same sex, who shall serve as a witness. A male administrator may not search a female student. If a female administrator is not available to search a female student, the administrator may designate another female staff member to conduct the search. If a male administrator is not available to search a male student, the

administrator may designate another male staff member to conduct the search. It is important to emphasize that searches must always be done by a staff member of the same sex, and must always be done in the presence of a witness of the same sex.

4. Before conducting a student search, the administrator must be confident that the reasonableness standard, as outlined by the T.L.O. decision (The United States Supreme Court in the case of New Jersey v. T.L.O., 469 U. S. 325) has been satisfied.
5. The manner and method of the search should be tailored to the circumstances. The scope of the search normally should be limited to those areas and objects that could reasonably be expected to contain the item(s) being sought. The basis for the suspicion that a student possesses evidence of a violation of the law or school rule should increase in direct proportion to the extent of the intrusion upon the student's privacy in conducting the search. A body search of a student requires a higher level of suspicion than a search of a student's book bag.

In determining whether and how to conduct a student search, school officials must consider such factors as the danger posed by the object being sought; the likelihood of the evidence being disposed of or destroyed; and the age, sex, and prior disciplinary record of the student. The more serious the threat posed by the item(s) being sought, the more likely a court will be to find the search reasonable. On the other hand, it is likely that a court would strike down a search that involved the wholesale rummaging through a student's personal property without individualized suspicion

that the student had violated either the law or school rules. Student searches must not become general and exploratory.

6. School Department employees are not allowed to conduct strip searches. Strip searches are searches in which a student is asked to remove articles of clothing that could result in the exposure of undergarments.
7. An administrator should never use physical force in attempting to conduct a search. If a student refuses to submit to a search, the Department of Safety Services (617-635-8000) should be called for assistance.
8. Searches of student lockers and desks, which remain the property of the Boston Public Schools while used by students, should be based upon reasonable grounds to suspect that they will yield evidence of either violation of law or school rules. Refer to Superintendent's Circular SAF-03 Locker Policy for related information.
9. If a search by a school administrator yields evidence that a law has been violated, the administrator should notify the Department of Safety Services.

School leaders/principals must incorporate salient and pertinent information from this memorandum into all school-based rules and student handbooks. Students and parents must be informed that such information serves as prior and ample notice of the School Department's procedure for student searches. The phrase **"prior and ample notice"** is to be included in school-based rules and student handbooks.

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