

AVON MAITLAND DISTRICT SCHOOL BOARD

ADMINISTRATIVE PROCEDURE

NO. 364

SUBJECT: SEARCH AND SEIZURE GUIDELINES

Legal References: *Education Act: Section 264 Duties of Teacher; Section 265 Duties of Principal; Education Act: Part XIII Behaviour, Discipline and Safety; Ontario Regulation 298 Operation of Schools Section 23 Requirements for Pupils; Guideline - Ontario Schools Code of Conduct; The Canadian Charter of Rights and Freedoms*

Related References: *Administrative Procedure 138 Positive Workplace Environment; AP 179 Lockdown and Hold/Secure; AP 350 Safe Schools; AP 351 Code of Conduct; AP 352 Promoting Positive Student Behaviour; AP 355 Substance Abuse by Students; AP 358 Student Suspension; AP 359 Student Expulsion; Police/School Board Protocol (Appendix B, AP 351)*

1. Conducting Student Searches

- 1.1 This administrative procedure provides a set of guidelines for teachers, principals or vice-principals to use when conducting student searches in order to maintain a safe school environment.
- 1.2 It also ensures that any property, including but not limited to dangerous material, weapons, illegal substances or narcotics, seized from a student during a student search is secured and disposed of in a safe and legal manner. [Section 2.5]

2. Administrative Procedures

2.1 Preamble

The following procedures are guidelines only and do not define absolute limits on the possible extent of student searches. Teachers, principals or vice-principals must continue to rely on their own common sense and judgment when dealing with individual discipline problems.

2.2 Definitions

- 2.2.1 "Search" refers to the examination by a teacher, principal or vice-principal of a student's assigned locker, desk, personal property or person.
- 2.2.2 Lockers are the property of the school board. The school administration will advise students annually that lockers remain the property of the school board and that they have the right to enter any locker at any time for reasonable cause. Staff members shall make every effort to avoid touching a student during a search except in exceptional circumstances.
- 2.2.3 "Seizure" refers to the securing of property, including but not limited to dangerous material, weapons, illegal substances or narcotics, as a result of a student search by a teacher, principal or vice-principal.
- 2.2.4 This procedure applies on school board property, school excursions and school buses.

2.3 Decision to Search

- 2.3.1 Before conducting a student search, teachers, principals and vice-principals must have reasonable grounds to believe that a threat to the health and safety of students and/or staff exists, or that there was a breach of school regulations or discipline and that a search of the student would reveal evidence of that breach.
- 2.3.2 Examples of reasonable grounds for search are:
- Information received from one or more student(s), parent(s) or guardian(s), support staff or some other credible source;
 - A teacher's, principal's or vice-principal's own observations; or
 - Any combination of the above.
- 2.3.3 A search must be related to and undertaken in accordance with the statutory duties and responsibilities of an administrator or teacher as defined by the *Education Act* (Sections 264 and 265) "to maintain proper order and discipline" and a high "duty of care" of pupils and property. A teacher, principal or vice-principal does not require a search warrant in order to conduct a student search.
- 2.3.4 A student search shall not be conducted by a teacher, principal or vice-principal at the direction of the police. If the police request a search to be conducted, they must conduct the search.
- 2.3.5 Where a search is of a student's "person", and where the student refuses to permit such a search, school officials should not attempt a search against the will of the student. In such cases, police shall be notified immediately.

2.4 Search Guidelines

- 2.4.1 Teachers, principals or vice-principals shall make every effort to avoid touching a student during a student search and shall not conduct personally intrusive student body searches, strip searches or searches which may pose a risk to the safety of staff or students. Teachers, principals or vice-principals may wish to have a police officer present while conducting a student search.
- 2.4.2 Every search shall be conducted in as reasonable and sensitive a manner as possible and shall take into account the age and sex of the student. At least one teacher, principal or vice-principal (or other school staff member) of the same sex as the student must be present during a student search.
- 2.4.3 Principals, vice-principals or teachers must not conduct a student search alone. Student searches must be undertaken and witnessed by at least two of these school officials, one of whom must be a school administrator.
- 2.4.4 The permissible extent of the search will vary with the gravity of the infraction that is suspected. For example, it may be reasonable for a teacher, principal or vice-principal to take immediate action and search lockers, personal property and have the student turn out his or her pockets or remove shoes and socks where there are reasonable grounds to believe that a student is carrying a gun, or some other dangerous weapon or is in possession of or is distributing an illegal substance or narcotic. The existence of an immediate threat to the safety of students will justify swift, thorough and extensive searches. In such cases, the police, the regional superintendent and the student's parents or guardians (if the student is under 18 years old) must be notified immediately.
- 2.4.5 In all cases where a student search is conducted, the regional superintendent and the student's parents or guardians (if the student is under 18 years old) must be notified as soon as possible.

2.5 Seizure Guidelines

The police must be informed, as soon as possible, of any dangerous material, weapon, illegal substance or narcotic seized during a student search by a teacher, principal or vice-principal.

2.6 Teacher Guidelines

- 2.6.1 Teachers will immediately notify the principal or vice-principal if it is believed a student search may have to be conducted in order to enforce school procedures.
- 2.6.2 A student search or the decision to conduct a student search should, in all but extreme emergency situations, be the responsibility of the principal or vice-principal.
- 2.6.3 Teachers should not make decisions regarding the conduct of student searches unless there is an imminent threat to the safety of any person such that it would be impractical to obtain the assistance of the principal, vice-principal or regional superintendent.