

Public Schools Branch

OPERATIONAL PROCEDURE

STUDENT INVESTIGATION AND SEARCH	
<i>Policy Section</i> Programs and Services	<i>Procedure Number</i> 409.1
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<i>Replaces:</i> PSB Procedure 409.1 Student Investigations and Searches, September 17, 2019 PSB Procedure 703.1 Relations with Law Enforcement and Child Protection Authorities, September 17, 2019	

1.0 DEFINITIONS

- 1.1 Alcohol – all substances defined as liquor in the *Liquor Control Act*.
- 1.2 Body Search – (also known as a strip search) refers to a search where most or all clothing is removed in order to conduct a visual inspection of the body or all of the clothing. A body search is different from a Search of a student by school personnel, which is defined in 2.8.
- 1.3 Drug – a controlled substance which is prohibited under the *Controlled Drugs and Substances Act*, cannabis as defined by the *Cannabis Control Act*, or a prescribed/over-the-counter medication which is misused, or any other misused substance which causes a mind or body altering effect, such as but not limited to solvents, correction fluids, glue, gasoline, aerosol spray, and cleaning fluids.
- 1.4 Drug Paraphernalia – any equipment, product, material or accessory that is used for making, using or concealing Drugs. Drug paraphernalia may include but is not limited to, rolling papers, bongs, e-cigarettes (vapes), pipes, needles, syringes, etc.
- 1.5 Investigation – an inquiry or examination conducted by school personnel, in relation to a potential breach of the law or a Public School Branch policy or procedure, and may or may not include a Search.
- 1.6 Pat-down – the act of passing the hands over a person’s clothing to detect a concealed item such as a weapon or illegal substance.
- 1.7 Prohibited Substances or Objects – include but are not limited to Alcohol, cannabis, Drugs, Drug Paraphernalia, stolen property, Weapons, and offensive or illegal material.
- 1.8 Reasonable Grounds – information that an average person may rely on in considering whether there is reason to believe that it more likely than not that something has occurred or will occur. A mere suspicion is not Reasonable Grounds but definite proof is not necessary. (See section 3.0 for more information on Reasonable Grounds.)
- 1.9 School Bus – a school bus or other vehicle that is under the management of an education authority and used primarily for the conveyance of students.
- 1.10 School Climate – the environment, values and relationships found within a school. A positive school climate exists when all members of the school community feel safe, included and accepted, and actively promote positive behaviours and interactions. Equity, inclusion and respect are critical components embedded in the learning environment of a positive school climate.

- 1.11 School Premises – a building or property under the management or operation of an education authority that is used in whole or in part for the instruction of students and includes a School Bus as defined by the Student Transportation Regulations.
- 1.12 School Property – any property owned by the school which may be provided to a student for their use including but not limited to, technology, desk, locker, cubby.
- 1.13 School-sponsored Activity – any activity, whether conducted on or off School Premises that is sponsored, recognized or authorized by a principal or the Public Schools Branch.
- 1.14 Search – an Investigation of a student and an examination of a Student’s Personal Belongings or School Property provided for a student’s use, by the school principal or person designated by the principal. A search does not include a Body Search or Pat-down. (See section 5.0 and 6.0.)
- 1.15 Student’s Personal Belongings – items such as a mobile phone or other personally-owned device, backpack, outer clothing, vehicle, item/object, etc.
- 1.16 Weapon – anything used or intended for use in causing death or injury to persons, whether designed for such purpose or not; or anything used or intended for use for the purpose of threatening or intimidating any person.

2.0 INTRODUCTION

- 2.1 The Public Schools Branch is committed to creating a positive School Climate and providing a safe and caring learning and working environment for students and staff.
- 2.2 In accordance with the *Education Act*, teachers and school principals are responsible for maintaining order and discipline in the school, on School Premises and during school sponsored activities, and attending to the health, comfort and safety of students under their supervision.
- 2.3 The Public Schools Branch prohibits the possession, on School Premises or at a School-sponsored Activity, of substances or objects which may threaten personal or public safety. Such materials or objects may include, but are not limited to, Alcohol, cannabis, illicit Drugs, Drug Paraphernalia, vapes, stolen property, Weapons, or offensive material.
- 2.4 From time-to-time, an Investigation of an incident on School Premises or at a School-sponsored Activity may involve a Search of a Student’s Personal Belongings or any School Property provided by the school for the student’s use.
- 2.5 It is only reasonable to conduct a Search when the school administrator or designate has Reasonable Grounds to believe that there has been a breach of applicable laws or Public Schools Branch policies and procedures and that the Search would reveal evidence of that breach. (See section 3.0 for more information on Reasonable Grounds.)
- 2.6 Each school year, the principal will ensure that students and staff are informed of the Student Investigation and Search policy and procedure and the school’s right to Search School Property which includes desks, lockers, and other storage areas provided by the school. Only school issued or authorized locks may be used to secure school lockers and the school shall retain a master key to all locks.
- 2.7 Unless there is an immediate threat to the safety or security of a person or the school, a Search conducted under the Student Investigation and Search policy and procedure will be conducted by the principal or designate. Where there is an immediate threat, call police.

3.0 REASONABLE GROUNDS FOR A SEARCH

- 3.1 A warrant is not essential in order to conduct a Search of a Student’s Personal Belongings by a school. Schools are in the best position to access information given to them and relate it to the situation existing in their school.

- 3.2 The following may constitute Reasonable Grounds to conduct a Search:
- a) Information received from one student or other individual considered by the principal or designate to be credible;
 - b) Information received from more than one student or more than one individual; and
 - c) A teacher, staff person or principal's own observations.
- 3.3 The compelling nature of the information and the credibility of these or other sources will be assessed by the principal or designate in the context of the circumstances existing at a particular school. A random or arbitrary Search or Search on groundless suspicion will likely be in contravention of the Canadian Charter of Rights and Freedoms.

4.0 SCHOOL INVESTIGATIONS

- 4.1 An Investigation, including reasonable questioning of a student, may be based upon suspicion that a school rule has been violated or that the safety or security of a person or the school may be at risk.
- 4.2 A principal or designate may question a student to further an Investigation conducted for the purpose of maintaining order and discipline in the school, on School Premises, or during a School Sponsored or approved Activity. When it is evident that a situation under Investigation may involve illegal activity, the principal or designate shall contact police, followed by a call to the Director of Student Services.
- 4.3 Where it is determined that police involvement is warranted, the parent/guardian of the student will be notified and the principal or designate shall refrain from any further Investigation until the police arrive. (See section 6.0 for more information on police Investigations and Searches.)

5.0 SCHOOL SEARCHES

- 5.1 A Search is only undertaken if there are reasonable grounds to believe that the Search would yield proof of illegal activity, or of a breach of school or Public Schools Branch rules or policies, or provincial laws. Depending on the severity of the suspected infraction, the extent of the search will vary. The seriousness of the suspected infraction must be carefully weighed out before the extensiveness of the Search is determined. Random Searches are not allowed.
- 5.2 Where there is a need to conduct a Search and the principal or designate is not comfortable conducting such a Search, the principal or designate shall contact the Director of Student Services for advice. (See section 6.0 for more information on police Investigations and Searches.)
- 5.3 Only the principal or their designate shall be permitted to conduct a Search or seize Prohibited Substances and Objects, unless there is an immediate threat to the safety of a person or persons or the School Premises.
- 5.4 The principal or designate shall exercise reason and judgement in determining the scope of any Search. Searches shall be conducted in a sensitive manner and be minimally intrusive. Due consideration shall be given to the age and gender of the student and the gravity of the infraction.
- 5.5 A Search shall be conducted in the privacy of the principal's office or another suitable room designated by the principal or designate. Where need for a Search is indicated, the student involved shall be given the opportunity to produce the Prohibited Substance or Object which they are suspected of possessing.

- 5.6 A Search shall be conducted in the presence of the principal or designate and one additional adult witness. At least one of the adults must be the same gender with which the student identifies.
- 5.7 The Search by the principal or designate shall be limited to requesting that outer layers of clothing be removed (e.g. coats, hats, gloves, outer shirts, shoes, and socks.) This also includes the request to empty pockets, open and empty contents of bags and other similar requests. A more intensive search (i.e. a Body Search or Pat-down) shall not be conducted by the principal or designate. If a more intensive search is believed to be necessary, the principal or designate shall refer the matter to the police for assistance or advice and notify the Director of Student Services.
- 5.8 A Search of School Property provided to a student for their use shall normally be conducted in the presence of the relevant student, unless the Search is part of a return to school plan or the plan has been previously discussed with the student.
- 5.9 A Search of a Student's Personal Belongings shall be conducted in the presence of the relevant student.
- 5.10 If a vehicle brought on School Property is owned by a third party such as a parent of the student, consent of the parent to Search the vehicle shall be obtained before the Search is conducted.
- 5.11 In appropriate circumstances, where a Prohibited Substance or Object is discovered as a result of a Search, the principal or designate shall promptly contact the parent/guardian of a student under 18 years of age who is the subject of such Investigation. The principal or designate shall maintain a record of their attempts to contact the student's parent/guardian.
- 5.12 Any Prohibited Substance or Object discovered as the result of a Search will be confiscated and retained in a secure location. In all cases, a record shall be kept of all seized substances or objects.
- 5.13 The use of a police dog in conducting a Search of School Property will require prior approval from the Public Schools Branch.

6.0 POLICE INVESTIGATIONS AND SEARCHES

- 6.1 Where the police find it necessary to Search the School Premises or School Property provided for a student's use, the principal or designate will accompany the police on the Search. The police must obtain and provide the necessary legal authority and documentation to conduct the Search before any Search takes place.
- 6.2 Student Investigations and Searches by the police may be conducted off School Premises and outside normal school hours, as determined necessary by police.
- 6.3 When a student is to be interviewed, Searched, or removed by police, the public address system (PA system) shall not be used unless the student is not in their expected location.
- 6.4 When a student Investigation by police is conducted on School Premises, it is the responsibility of the police to inform all persons of their legal rights before any interview, Search, or removal takes place.
- 6.5 When the police find it necessary to conduct an Investigation or Search a student on School Premises, or remove a student from School Premises, the legal authority of the police to do so shall be requested by the principal or designate before the Investigation Search, or removal takes place.
- 6.6 Unless otherwise directed by the police, the principal or designate will be present during any interview, Search, or removal of a student on School Premises.

- 6.7 The principal or designate will encourage any student who is subject to an Investigation or Search by police on School Premises to have an adult present during any Investigation or Search. In cases where the police wish to Investigate or Search a student who is under the age of 18 years on School Premises, the principal or designate, unless otherwise directed by police, will promptly contact the parent/guardian of the student to advise that an Investigation or Search has been requested by the police, invite the parent/guardian to be present at the Investigation or Search and where the parent/guardian is not able to be physically present, invite the parent/guardian to speak with the student before the Investigation or Search is conducted.
- 6.8 When a student under the age of 18 years is removed from School Premises by the police, the principal or designate, unless otherwise instructed by police, will promptly notify the parent/guardian of the student.
- 6.9 Where the principal or designate is not able to make contact with the parent/guardian of a student, a record of all attempts to make contact must be maintained.

7.0 RECORDKEEPING

- 7.1 The principal or designate shall keep a record detailing the circumstances surrounding an Investigation.
- 7.2 The principal or designate shall document a Search using the Student Search Form (**Appendix A**) which shall be retained in the student's CUM file for one school year, after which it can be destroyed. Recorded information shall include details of the allegation, names of relevant parties, possible witnesses, times of relevant incidents, times and places of Investigation, parties Searched or interviewed, seized substances or objects, efforts made to contact parents/guardians, and details of police involvement, if any.
- 7.3 A copy of Appendix A shall be provided to and retained by the Director of Student Services.
- 7.4 Access to and disclosure of such information is subject to the *Freedom of Information and Protection of Privacy Act*.

8.0 APPENDICES

- 8.1 Appendix A – Student Search Form

9.0 CROSS REFERENCE

- 9.1 PSB Operational Policy 409 - Student Investigation and Search
- 9.2 PSB Operational 605.1 - Safe and Caring Learning Environments
- 9.3 PSB Operational Procedure 606.1 - Alcohol and Drugs
- 9.4 PSB Operational Procedure 103.1 - Prince Edward Island Student Record Guidelines and Supplementary Appendices
- 9.5 *Education Act*
- 9.6 Canadian Charter of Rights and Freedoms
- 9.7 United Nations Convention on the Rights of the Child
- 9.8 *Youth Criminal Justice Act*
- 9.9 *Liquor Control Act*
- 9.10 *Controlled Drugs and Substances Act*
- 9.11 *Cannabis Control Act*
- 9.12 *Freedom of Information and Protection of Privacy Act*