



POLICY: JFG
SUBJECT: STUDENT SEARCH AND SEIZURE
APPROVAL DATE:
REVISION DATE: December 7, 1999,
January 13, 2020
PAGE: 1 of 5

1. GENERAL

In accordance with the Public Schools Act, school boards are required to ensure that each student is provided with a safe and caring school environment that fosters and maintains respectful and responsible behaviours.

- 1.1 The Winnipeg School Division (WSD) is committed to the safety of all staff and students in school and during authorized school functions.
- 1.2 In accordance with the Canadian Charter of Rights and Freedoms and the Youth Criminal Justice Act (Canada), students have the right to be secure against unreasonable search and seizure. Searches shall also be conducted where there is reasonable suspicion that a student is concealing something which is in violation of the law, school division policy.
- 1.3 In accordance with the Youth Criminal Justice Act, students between the ages of 12 to 17, have the right to retain and instruct council personally without delay and at any stage of proceedings against them.
- 1.4 In accordance with the Education Administration Act, the principal has disciplinary authority over the conduct of each student from the time the student arrives at the school until the student departs for the day. The principal also has disciplinary authority over all students of the school (a) on their way to and from school, in terms of their conduct towards one another; (b) while they are being transported to or from school; and (c) while engaged in an activity that is prescribed for the purpose of section of the Public Schools Act 47.1.1 (reporting of unacceptable conduct) of the Act.
- 1.5 Children under the age of 12 who have breached WSD policies or the Code of Conduct cannot be charged with an offence under the Criminal Code, Youth Criminal Justice Act, or the Provincial Offences Act.
- 1.6 Students eighteen (18) and over who have breached WSD Policies will be disciplined under WSD Policies. If warranted, Severe offences will be reported to the police.
- 1.7 All students have the right to equal treatment without discrimination based on race, nationality or ethnic origin, colour, religion, gender, age or mental or physical barriers.
- 1.8 Each school year, the principal will ensure that students and staff are informed of the school's right to search school property.
- 1.9 In accordance with the Manitoba Education Act, Principals and teachers have authority to conduct reasonable searches to enforce school rules and protect the health and safety of students in their care. Except in an emergency situation, teachers are encouraged to seek approval from the principal or designate to conduct the search. Under no circumstances will a staff member conduct a body search.
- 1.10 WSD prohibits the possession, on school property or at authorized school functions, of substances or objects which may threaten public safety. Such materials or objects may include, but are not restricted to, alcohol beverages; cannabis; illicit drugs or accessories; stolen property; weapons, either restricted or prohibited by law or; any object which may be used as a weapon or that may cause serious injury. or offensive material, or any material inappropriate for a school setting. The principal or designate shall have authority to confiscate such items and notify the parent/guardian that it is being held at the school to be retrieved by the parent/guardian unless the item(s) in question is part of a police investigation.



POLICY: JFG
SUBJECT: STUDENT SEARCH AND SEIZURE
APPROVAL DATE:
REVISION DATE: December 7, 1999,
January 13, 2020
PAGE: 2 of 5

- 1.11 Student lockers/desks are the property of WSD. School administrators have the authority to inspect student lockers and/or desks wherever circumstances warrant such action, when there are reasonable grounds to believe that student/staff safety is at risk or school rules or discipline has been breached and that a search would reveal evidence of that breach.
- 1.12 School administrators have the authority to search the student's personal belongings, including backpacks and cell phones, when there are reasonable grounds to believe that students/staff safety is at risk or school rules or discipline has been breached and that a search would reveal evidence of that breach.
- 1.13 WSD may impose disciplinary measures for conduct that occurs throughout the day or after school hours, as well as off school property where there is evidence of an online threat or intimidation through the internet including social media. This includes text messaging, instant messaging, websites and email which result in a disruption in the school community or is harmful to the physical or mental well-being of students or staff and intended to create a negative school environment for another person
- 1.14 Students who bring personal devices on Division property are responsible for its safekeeping. WSD will not assume responsibility for the loss, destruction, damage or theft of any electronic communications. The use of WSD or personal devices to access online content must not interfere or disrupt the school or work environment. The process is outlined in Policy JFCBA-Responsible Use of Technology and Social Media and Policy IK-Student Assessment, where a student is in violation of plagiarizing and it has been determined that the student has been engaged in dishonest behaviour, the principal and/or teacher will promptly inform the student's parents/guardians and document the incident in the student's file.
- 1.15 The student will be informed and present, where reasonably possible, in the circumstances when a search is conducted. Students will be given the opportunity to consent to a search or to make voluntary disclosure of any breach of policy. Principals shall consider the cooperation of the student in determining disciplinary action as outlined in the Provincial Code of Conduct – Appropriate Interventions and Disciplinary Consequences.
- 1.16 If a student refuses a search of their personal belongings including back packs, cell phones, the principal will advise the student that the parents and/or police may be contacted.
- 1.17 In accordance with Policy JG-Safe Schools, all schools shall inform parents/students of the guidelines for the search of students' personal belongings including back packs and cell phones and their lockers/desks.

2. DEFINITION

- 2.1 Reasonable grounds – A search is only reasonable when school administrators have reasonable grounds to believe that there has been a breach of WSD policies and that a search would reveal evidence of that breach. All searches should be conducted in a private setting.
The following may provide reasonable grounds for a search:
 - Information received from one student considered to be credible;
 - Information received from more than one student; and
 - A teacher's or principal's own observations.
 - The search must be carried out in a sensitive and reasonable manner and take into account the students age and gender.



POLICY: JFG
SUBJECT: STUDENT SEARCH AND SEIZURE
APPROVAL DATE:
REVISION DATE: December 7, 1999,
January 13, 2020
PAGE: 3 of 5

- 2.2 School Division property includes grounds and parking lots.
- 2.3 Student personal belongings includes cell phones, backpacks, clothing or items/objects.
- 2.4 Restorative Practices in the classrooms allows school administrators to exercise flexibility and encourage dialogue between students rather than implementing disciplinary measures. The purpose is to build healthy school communities and restore relationships, and repair harm.
- 2.5 A weapon is defined as any object designed to be used in combat such as guns or knives, or any other item that may be used or intended to be used as a weapon that is not normally used for that purpose such as a bat, club, stick, sharp scissors, writing instrument, etc.

3. CHILDREN UNDER THE AGE OF TWELVE (12)

- 3.1 Children under the age of 12 who have breached WSD policies or the code of conduct cannot be charged with an offence under the Criminal Code, Youth Criminal Justice Act, or the Provincial Offences Act, however, police may take reports of incidents allegedly committed by students in this age group and may respond in an appropriate manner.
- 3.2 The principal is required to conduct an investigation of an incident for the purpose of school discipline for example, where a recommendation for suspension or expulsion may be required, regardless of the age of the students involved.
- 3.3 Principals are expected to use their discretion in applying disciplinary measures and encourage restorative practices.
- 3.4 Early intervention for children involved in such incidents is essential, and involving police and parents, and when appropriate, outside organizations and community supports, as early as possible may facilitate the provision of appropriate intervention and support.
- 3.5 Consequences should be based on individual needs, the severity and frequency of the problem and the ability of the student to understand the consequences.
- 3.6 Principals will ensure that the student's parent/guardian is contacted as soon as possible to discuss the details, except in emergency circumstances or where the police believe the parent may be implicated in the incident.
- 3.7 When an incident involves a child under 12, police have the authority to take reports, make referrals and conduct interviews.

4. RESPONSIBILITIES

4.1 Chief Superintendent/CEO

The Chief Superintendent/CEO, to the extent possible, shall ensure that the primary purpose of the inspections of lockers/desks and/or students' personal belongings including back packs and cell phones, shall be the protection of the health, safety and general welfare of students, staff or school property. Searches shall also be conducted where there is reasonable suspicion that a student is concealing something which is in violation of the law, school division policy or school rules or when in the case of locker searches the student using the locker is no longer in active attendance at the school.



POLICY: JFG
SUBJECT: STUDENT SEARCH AND SEIZURE
APPROVAL DATE:
REVISION DATE: December 7, 1999,
January 13, 2020
PAGE: 4 of 5

4.2 Superintendents/Directors

The Superintendents/Directors shall ensure that each school principal has incorporated the search and seizure procedures into each school student behaviour management policy and procedures.

4.3 Principal

- a) The principal shall ensure that the guidelines for search and seizure have been incorporated into the school's student behaviour management policy and procedures.
- b) Students and parent(s)/guardian(s) will be informed annually of the guidelines for student search & seizure through the use of assemblies, newsletters and/or student handbooks.
- c) The principal shall follow the procedures for the recording of search and seizure incidents and advise the parents/guardians of the details related to the search, when appropriate.
- d) The principal shall ensure that when possible, students be given the opportunity to consent to a search (Exhibit A – Consent Form)
- e) Where applicable, identify and recommend supports and resources.
- f) The principal shall ensure the development of consequences for inappropriate possession of prohibited substances or objects in school lockers/desks or on school property in accordance with Policy JG-Safe Schools and Policy JGD-Suspension of Students.
- g) The principal shall consider restorative practices when appropriate as outlined in the Provincial Code of Conduct.
- h) A search is only reasonable when school administrators have reasonable grounds to believe that there has been a breach of WSD policies and that a search would reveal evidence of that breach.
- i) A search of personal belongings including backpacks and cell phones is deemed reasonably necessary in the circumstances to advance the investigation of the alleged breaches. The principal may request the student to identify the details of the specific contents and only search the phone that reasonably relate to the grounds of the search. Principals do not have the authority to examine all the contents of a phone nor the authority to confiscate the cell phone. Once the search is complete, the cell phone must be returned to the student and the parent/guardian must be informed of the details related to the search.

5. APPROPRIATE INTERVENTIONS AND DISCIPLINARY CONSEQUENCES

- 5.1 In accordance with Policy JGD-Suspension of Students and the Public Schools Act, after all efforts have been made within the school to maintain a safe learning environment, the Board shall authorize the suspension or expulsion of students whose conduct, upon investigation, is considered to be injurious to the welfare of the school or other persons within the school.
- 5.2 WSD will use restorative practices in determining appropriate consequences for breaches of WSD policies and the Code of Conduct as outlined in the Provincial Code of Conduct.
- 5.3 In cases of suspension of students that are one day or more in length, the principal must notify the parents/guardians by telephone whenever possible, and in writing, including the details of the incident, immediately upon suspension.
- 5.4 Consequences should be based on individual needs, the severity and frequency of the problem and the ability of the student to understand the consequences.



POLICY: JFG
SUBJECT: STUDENT SEARCH AND SEIZURE
APPROVAL DATE:
REVISION DATE: December 7, 1999,
January 13, 2020
PAGE: 5 of 5

6. POLICE INVESTIGATIONS

- 6.1 The police will not conduct investigations in the schools except when it is absolutely necessary for them to do so in the proper discharge of their duty. They may secure the addresses of students in order to carry on investigations outside the school. When students have to be interviewed by the police, the principal of the school shall be present at the interview. The student shall be cautioned with respect to giving evidence to their own detriment.
- 6.2 WSD has an understanding with the Winnipeg Police that, whenever possible, a senior officer will obtain the approval of a superintendent before investigating officers proceed to a school to interrogate a student.
- 6.3 Except in emergency circumstances, police seeking to conduct searches of school property, including lockers, are required to obtain a search warrant. When executing a search warrant, police will serve the principal or designate of the school with a copy of the search warrant and, if necessary, obtain legal advice.
- 6.4 The principal will determine whether the police want to speak to the student as a witness or as the possible subject of charges. Where possible charges are involved, the principal will request that the student's rights under the Youth Criminal Justice Act be explained to have counsel, parental or other adult involvement; and document the response. The principal can advise the police that if the student wants a parent present, but no parent is available, the student may have an adult relative or any other appropriate adult chosen by the student. If the student so chooses, the principal (or another teacher) will be ready to attend in place of the parents.

7. DISCLOSURE

- 7.1 Subsection 125(6) of the *Youth Criminal Justice Act* authorizes the limited disclosure of information respecting young persons dealt with under that Act to school representatives.
- 7.2 In accordance with the Youth Criminal Justice Act, the principal has been designated as the school board representative to receive and disclose information.
- 7.3 No employee is authorized to disclose information to any person regarding students without approval from the principal or designate.

8. APPEAL

- 8.1 In accordance with the Public Schools Act, parents/legal guardians and/or students may make representation to the School Board about extended suspensions or expulsions. The School Board may confirm the suspension/expulsion, modify it or reinstate the student if applicable.