



BOARD POLICY

BP 5145.12

8-25-20

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Students

Search and Seizure

The Governing Board 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, staff, and others, school officials may as provided for in the Board Policy, search students, their property, and/or District property under their control and may seize illegal, unsafe, or otherwise prohibited items.

(cf 5145.11 - Questioning and Apprehension)

(cf 0450 — Comprehensive Safety Plan)

(cf 3515 — Campus Security)

(cf 5131- Conduct)

(cf 5131.7- Weapons and Dangerous Instrument)

(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 state and federal law and Constitutions, Board policy, and administrative regulation.

(cf 0410 — Nondiscrimination in District Programs and Activities)

(cf 112.1 — Complaints Concerning District Employees)

Cf. 5145.3 — Nondiscrimination/Harassment)

The Superintendent or designee shall ensure that staff, including site administrators, police officers, and other staff who may conduct or participate in student searches and seizures, receive annual training regarding the requirements of the District's search and seizure policy and other related legal issues, including the application of the 4th Amendment in schools.

<i>(cf</i>	<i>4131</i>	<i>—</i>	<i>Staff</i>	<i>Development)</i>
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<i>(cf</i>	<i>4231</i>	<i>—</i>	<i>Staff</i>	<i>Development)</i>
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(cf 4331 — Staff Development)

Individual Searches Based on Reasonable Suspicion

School officials may search any individual students, 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

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the school. Reasonable suspicion shall be based on specific, objective, and articulable facts that the student has engaged in prohibited conduct that is the prerequisite to a search conducted to produce evidence related to the alleged violation. The types of student property that may be searched by school officials based upon reasonable suspicion, include, but are not limited to, the student's property inside a locker or desks, and student purses, backpacks, student vehicles parked on District property, cellular phones, or other electronic communication devices. Searches of electronic devices shall be conducted pursuant to the requirements of the state and federal constitutions and to the California Electronic Communications Privacy Act. (Penal Code 1546.1 et seq.)

Reasonable suspicion searches of student lockers may occur when odors, smoke, fire and/or other threats to student health, welfare, or safety emanate from a locker.

Any reasonable suspicion 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 of a student 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)

Employees shall not conduct random, suspicionless pat-down searches of students.

Nothing shall prohibit employees from the search of locations, structures and/or items where a student has no reasonable expectation of privacy such as district buildings, grounds, and vehicles.

Searches of individual students shall be conducted in the presence of at least one District employee.

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



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Notice

The District shall publicize this policy when revised and students and parents/guardians shall thereafter be informed of this policy in the annual parent notice issued at the beginning of each school year. (Education Code 48980)

Legal Reference:

EDUCATION CODE

32280-32289 School safety plans

35160 Authority of governing boards

35160.1 Broad authority of school districts

48980 Annual parent notice

49050-49051 Searches by school employees

49330-49334 Injurious objects

PENAL CODE

626.9 Firearms

626.10 Dirks, daggers, knives or razor

1546 et seq. Electronic Communications Privacy Act

COURT DECISIONS

B.C. v. Plumas, (9th Cir. 1999) 192 F.3d 1260

O'Connor v. Ortega, (1987) 107 S.Ct. 1492

In re William G (1985) 40 Cal 3d 550

New Jersey v. T.L.O., (1985) 469 U.S. 325

Safford Unified Sch. Dist. #1 v. Redding (2009) 557 U.S. 364

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

75 Ops.Cal.Atty.Gen. 155 (1992)

83 Ops.Cal.Atty.Gen 257 (2000)

Management Resources:

WEB SITES

California Attorney General's Office: <http://caag.state.ca.us>

CDE, Safe Schools and Violence Prevention Office: <http://www.cde.ca.gov/spbranch/safety>