

<b>FREDERICK COUNTY PUBLIC SCHOOLS</b>	<b>Reg. No. 400-59</b>
<b>Subject: SEARCH AND SEIZURE, ARRESTS AND QUESTIONING OF STUDENTS</b>	<b>Date of Issue: 10/15/91</b>
<b>Preparing Office: Office of the Superintendent</b>	<b>Amended: 6/9/04</b>

I. Policy

Cross-reference §7-308 of the Education Article, Annotated Code of Maryland and COMAR 13A.08.01.11-.14

II. Procedures

A. Authority to Search

1. A principal or assistant principal may make a reasonable search of a student if he has a reasonable belief that the student has in his possession an item, the possession of which is a criminal offense under the laws of this state, or a violation of any other state law or a rule or regulation of FCPS.

Reasonable belief means the legality of a search of a student will depend upon the "reasonableness" of the search in light of all the circumstances. There must be reasonable grounds to believe that the search will reveal an item, the possession of which is a criminal offense under the laws of this state or a violation of any other state law or a rule or regulation of FCPS. Two considerations are relevant in determining the reasonableness of a search. First, the search must be justified at its inception by a reasonable suspicion. Second, the scope and conduct of the search must be reasonably related to the circumstances, which gave rise to the search, taking into account the student's age, gender, and the nature of the offense.

2. In the absence of the school administrator, teachers designated in writing by the principal and trained to conduct searches may make a reasonable search of a student on a school-sponsored trip if they have reasonable belief that the student possesses an item in violation of state law or a FCPS regulation.
3. All searches shall be made in the presence of a third party.
4. A principal or assistant principal may make a search of the physical plant of the school and its appurtenances including the lockers of students.
5. The right of the school official to search the locker shall be announced or published previously in the school.

B. A school official may not conduct a search of a student based solely on the request of a police officer.

C. Items that may be the object of a search

The object of a search must be an item, the possession of which is a criminal offense under the laws of this state or a violation of any other state law or a rule or regulation of FCPS. Such items may include but are not limited to weapons, including look-alike and nondeadly weapons, illegal drugs, controlled dangerous substances, substances which have the appearance of a controlled dangerous substance, drug paraphernalia, portable pagers, alcoholic beverages, explosive devices, fireworks, stolen items, tobacco products, and adult magazines.

D. Guidelines for Personal Searches

1. Strip searches by school personnel are prohibited.
2. Searches must be conducted by a school administrator (principal or assistant principal only) in the presence of another adult of the same gender as the person being searched. Administrators should not pat down or search a student of the opposite gender unless there is reason to believe a threat of danger exists.
3. The search or pat down must avoid intimate parts of the body.
4. Students may be required to empty their pockets, purses, billfolds, etc. prior to being patted down.
5. The administrator should begin the search by informing the student that he has a reasonable belief that the student is in possession of (the administrator should then state the object of the search to the student) and explain the anticipated scope of the search.

E. Guidelines for Searches of Automobiles

If an administrator has a reasonable belief that a student has concealed an unlawful item in the student's automobile, the administrator should contact the police. If the police are unavailable or if the situation will not allow for police presence, a student's automobile may be searched by a principal or assistant principal when an unlawful item is in plain view, the principal or assistant principal has a reasonable belief that an illegal item is in the car, or when the student consents.

F. Seizure

All items that are the object of a search and unlawful items found during the search will be seized by the school administrator. Items may be turned over to the police, or where appropriate, returned to the parents of the student.

G. Arrests on School Premises (13A.08.01.12)

1. When possible and appropriate, arrest by police should be made during nonschool hours and away from the school premises.
2. When an arrest on school premises during school hours is necessary, the responsible school official shall ascertain the facts from the arresting officer, which will enable the school official to fully advise the parent or guardians and other school officials of the nature of the charge, the identity of the arresting officer, and the location of the student.
3. When an arrest has taken place on school premises or during school hours, every effort shall be made by school officials to inform the parent or guardians immediately and thereafter promptly to advise the local superintendent of schools.
4. Arrest on school premises during school hours shall be effectuated in such a manner as to avoid both embarrassment to the student being arrested and jeopardizing the safety and welfare of other students.
5. School officials may not permit questioning of a student under arrest on the school premises and shall request the arresting officer to remove the student from the premises as soon as practicable after the arrest is made.

H. Questioning on School Premises (13A.08.01.13)

1. Police investigations involving the questioning of students may not be permitted on school premises unless in connection with a crime committed on the premises or in connection with an investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of the students or other persons, provided, however, that a school official should be present throughout the questioning.
2. A local school system shall permit personnel from a local department of social services or a police officer to question a student on school premises during the school day in an investigation involving suspected child neglect under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland, or suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland. The following apply:
  - a. The local superintendent or the superintendent's designee shall determine, after consultation with the individual from the local department of social services or the police officer, whether a school official shall be present during the questioning of a student pursuant to this section.
  - b. Records and reports concerning child abuse or neglect are confidential, and unauthorized disclosure is a criminal offense under Article 88A, Section 6(b), Annotated Code of Maryland.

3. Except as provided in #4, whenever investigative questioning of students is permitted on the premises, the school official shall promptly advise the parent or guardians and the local superintendent's office of the nature of the investigation and such other details as may be required.
4. School officials are not required to notify parents or guardians of investigations on school premises involving suspected child neglect or abuse under the Family Law Article of Maryland.
5. In the absence of an arrest, school officials may not authorize the removal of a student from school for the purpose of investigative questioning without the consent of the parent or guardians, except as provided below:
  - a. A student may be removed from school premises if that student is a suspected victim of child abuse or neglect and the local department of social services has guardianship of the child or a court order to remove the child.
  - b. The superintendent or the superintendent's designee shall ensure that prompt notification of a student's removal from school under this section is made to the student's parent or guardians.

I. Refusal to Allow Search and Seizure

1. A student's willful refusal to cooperate with a school administrator at any time during a search of the person or property, which is detrimental to the security, discipline, and sound administration of the school may result in disciplinary action.
2. The administrator should advise the student if a student refuses to permit a search, that the police may be contacted.
3. If the student refuses to permit a search, the administrator should cease his attempt to conduct the search and notify the police department of the circumstances. An attempt should then be made to inform the parents that the police have been contacted. If the police have been contacted, the administrator should not conduct a search, even if the student changes his decision and consents to the search.

Approved:

*original signed by*

---

Jack D. Dale  
Superintendent