

FREDERICK COUNTY PUBLIC SCHOOLS	Reg. No. 400-59
Subject: SEARCH AND SEIZURE, ARRESTS AND QUESTIONING OF STUDENTS	Issued: 10/15/91
Preparing Office: Office of the Superintendent	Amended: 7/1/22

I. Policy

II. Procedures

The following procedures are provided, acknowledging and balancing the rights afforded to students and the authority of administrators to maintain a safe learning environment.

A. Authority to Search

1. Under Maryland law, a principal or assistant principal may make a reasonable search of a student based on a reasonable belief that the student possesses an item 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 Frederick County Public Schools (FCPS).¹
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 an FCPS regulation.
3. A school official may not conduct a search of a student based solely on the request of a police officer.

B. Scope of the Search

1. A search is limited in scope to those areas where there is reasonable suspicion where the item might be located.
2. 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 identity, and the nature of the offense.
3. A person may not conduct a search of an entire class or large group of students based solely on a generalized concern that one student in the group may be in possession of a searchable item.

¹ Reasonable belief means there are credible grounds or evidence 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.

4. All searches shall be made in the presence of a third party.

C. Guidelines for Personal Searches ²

1. Students may first be asked to “self search” (i.e. emptying their pockets, purses, and bookbags if the suspicion relates to the possible concealment in one of these areas.)
2. The administrator is advised to begin the search by informing the student that there is reasonable belief that the student is in possession of an item that is a criminal offense, violation of state law, or a rule or regulation of FCPS.
3. Every effort shall be made to conduct searches in a manner which will minimize disruption of the normal school routine and minimize embarrassment to the student impacted.
4. Provisions should be made to ensure there is no barrier to communication about the search and accommodations are provided regarding mental or physical disability of the student. With the exception of A.2, searches must be conducted by a school administrator (i.e. principal or assistant principal) in the presence of another adult of the same gender identity as the person being searched.
5. Administrators should not pat down a student of the opposite gender identity unless there is reason to believe an immediate threat of danger exists. When this is necessary, an adult staff member of the same gender identity as the student should be present to observe, if possible. The search or pat down must avoid intimate parts of the body.
6. Strip searches by school personnel are prohibited.
7. If the student refuses to cooperate with the search or turn over property subject to the search, the administrator should cease their attempt to conduct the search and notify the parent/legal guardian and/or the police department of the circumstances where appropriate. 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 their decision and consents to the search.

D. Guidelines for Searches of Vehicles

To search a vehicle, a school administrator needs reasonable suspicion that the student is in possession of an item in the vehicle that violates the law or school system rule. If an administrator suspects a weapon or illegal drugs, the administrator is advised to contact law enforcement or the office of Security and Emergency Management for assistance.

² Refer to the linked [Authorized Search Documentation Form](#) and also attached to this regulation as Exhibit 1

E. School Lockers / Detection Dogs

1. School lockers are not regarded as the student's personal property and are classified as school property under the law. School administrators are permitted to search lockers as they could any other school property, as students are annually put on notice of this possibility.³ However, a search of personal property within the locker should only occur based on reasonable suspicion standards.

2. Locker Clean Out

End of year locker clean outs may be monitored by a teacher, but a teacher does not have authority to search contents of personal property within the locker. If a teacher suspects or sees something during a locker clean out that a student may be in possession that is prohibited on school premises, the teacher will alert a school administrator to further address the issue.

3. Use of Detection Dogs

Detection dogs (i.e. drug or explosives trained dogs) may be used on school property. The use of detection dogs around lockers, vehicles or hallways does not constitute a search. If a dog's action singles out a particular area, and without exigency, a search warrant must be obtained before law enforcement may conduct a search of the physical plant of the school. This does not prohibit school officials from conducting a search in accordance with their authority under the law. School administrators may not conduct a search at the direction of law enforcement.

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 (COMAR 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

³ The right of a school administrator to search the physical plant of the school and its appurtenances, including lockers, is published annually in the FCPS Calendar Handbook.

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 jeopardizing the safety and welfare of other students and embarrassment to the student being arrested.
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 (COMAR 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, *Annotated Code 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. Training

School administrators will be annually trained on the provisions of this regulation with periodic notification provided by the offices of Legal Services and Security and Emergency Management.

III. Legal References

U.S. Constitution Fourth Amendment
§7-308 Education Article, *Annotated Code of Maryland*
COMAR 13A.08.01.11-.14

Approved:

original signed by

Michael Markoe
Interim Superintendent

Authorized Search Documentation Form

Date: _____ **Time:** _____

Student Name: _____ **Grade:** _____ **School:** _____

Person(s) conducting/witnessing search:

Name: _____ Title: _____

Name: _____ Title: _____

Name: _____ Title: _____

Reasonable suspicion to conduct the search based on:

- | | | |
|-------------------|------------------|----------------------|
| Credible Tips | Witness Report | Personal Observation |
| Social Media Post | Email/Phone Call | Other: |

Scope of the search: (check all that apply)

- | | | |
|------------|---------|---------|
| Person | Locker | Vehicle |
| Cell Phone | Bookbag | Other: |

Student actions during the search: (check one)

- | | |
|------------|---|
| Cooperated | Refused (refer to section C, paragraph 7 in FCPS Regulation 400-59) |
|------------|---|

Notes: (i.e. student consented, conducted self search, etc.) _____

Items/objects found during the search: _____

Disposition of items/objects found during the search: _____

Outcome of the search: (check all that apply)

- | | | |
|------------|---------------|--------------------------|
| Discipline | Police Action | No Further Action Needed |
|------------|---------------|--------------------------|

Parent/Guardian was informed of the search on _____ **by** _____