

STUDENT INTERVIEWS, INTERROGATIONS, SEARCHES, AND ARRESTS

The Colorado Springs School District 11 Board of Education (the Board) seeks to maintain a climate in the schools which is conducive to learning and protective of the safety and welfare of staff and students. To achieve this goal, it may be necessary for school personnel to search the person and/or the personal property of the student and to seize any property deemed injurious or detrimental to the safety and welfare of students and staff.

Searches may be conducted by a school official who has reasonable grounds for suspecting that a search will turn up evidence that the student has violated the law, Board policy, or school rules. When reasonable grounds for a search exist, school personnel may search a student and/or his property while on school premises or participating in a school sponsored activity under the circumstances outlined in this policy and may seize any illegal, unauthorized or contraband materials.

Any search conducted by a school official will respect the privacy of the student and not be any more intrusive than necessary, considering the age and sex of the student and nature of the suspected infraction.

Whenever possible, the student will be informed of the reason(s) for conducting the search and the student's permission to perform the search will be requested. A student's failure to cooperate with school officials conducting a search will be considered grounds for disciplinary action.

An administrative report will be prepared by the school official conducting a search explaining the reasons for the search, the results and the names of any witnesses to the search. If the search produces evidence to be used as the basis for disciplinary action, the report will be filed chronologically, in a secure, confidential school file in the school's main office.

Definitions

1. "Reasonable suspicion" is the standard for a search on school property or at school activities carried out by school authorities. Reasonable suspicion should be based on facts provided by a reliable informant or personal observation which cause the school official to believe, based on his own experience, that search of a particular person, place or thing would lead to the discovery of evidence of a violation of Board policy or law. Reasonable suspicion requires more than a mere hunch.
2. "Contraband" consists of all substances or materials prohibited by Board policy or state law including but not limited to drugs, alcoholic beverages, guns, knives, other weapons and incendiary devices.

Search of School Property

School lockers, desks and other storage areas are school property and remain at all times under the control of the school. School property provided for the use of students is subject to inspection, clean-outs, access for maintenance and search pursuant to this policy. Student lockers may be subjected to sniffs by dogs trained to alert at the scent of drugs, alcohol, explosives or other contraband. If an alert occurs, that will be deemed reasonable suspicion to search further.

Students will assume full responsibility for the security of their lockers and/or other storage areas in the manner approved by the administration. Students will be responsible for whatever is contained in desks and lockers assigned to them by the school.

The principal or his/her designee may search a desk, locker or any other storage area and its contents when he/she has reasonable grounds for a search. Whenever possible, another person will be available to witness the search.

Search of the Student's Person

The principal or his/her designee may search the person of a student if the school official has reasonable grounds to believe that the student is in possession of contraband.

Search of the person will be limited to any object in the student's possession such as a purse, book bag or briefcase and the student pulling out his/her pockets.

Searches of the person will be conducted out of the presence of other students and as privately as possible. At least one but not more than three additional persons of the same sex as the student being searched will witness but not participate in the search.

The parent or guardian of any student searched will be notified of the search as soon as reasonably possible.

Searches of the person which require removal of clothing other than a coat or jacket will be referred to a law enforcement officer. No strip search will be carried out by any school employee. Coats, book bags, backpacks, or other items not physically worn by students may be subject to sniffs by dogs trained to alert at the scent of drugs, alcohol, explosives or other contraband. An alert will constitute reasonable suspicion to search the article.

Parking Lot Searches

The privilege of bringing a student-operated vehicle on to school premises is conditioned on consent by the student driver to allow search of the vehicle when there is reasonable suspicion that the search will yield evidence of contraband.

Refusal by a student, parent or guardian, or owner of the vehicle to allow access to a vehicle on school premises at the time of a request to search the vehicle will be cause for termination without further hearing of the privilege of bringing the vehicle on to school premises.

Routine patrolling of student parking lots and an open view inspection of student vehicles will be permitted at all times. Vehicles may be subjected to sniffs by dogs trained to alert at the scent of drugs, alcohol, explosives or other contraband. If an alert occurs, that will be deemed reasonable suspicion to search further.

Student operated vehicles may be searched by law enforcement officials at any time allowed by law, including when such vehicles are parked off school property.

Seizure of Items

Anything found in the course of a search conducted by school officials which is evidence of a violation of law, Board policy, or school rules or which by its presence presents an immediate danger of physical harm may be treated in the following ways as allowed or required by law:

1. Seized and offered as evidence in any suspension or expulsion proceeding if it is tagged for identification at the time it is seized. Such material will be kept in a secure place by the principal until it is presented at the hearing.
2. Returned to the student or his parent or guardian.

3. Turned over to any law enforcement officer in accordance with this policy.

Law Enforcement Officers' Involvement

A. Interviews/Interrogations

Upon request by law enforcement officials to question a student victim, witness or suspect, when the student is on school premises or attending or participating in a school sponsored activity, school officials shall make an effort to notify the student's parent, guardian or legal/physical custodian unless prohibited by law enforcement from doing so. When law enforcement officials are investigating reported child abuse involving a student and the suspected perpetrator is the student's parent, guardian or legal/physical custodian or another member of the student's family, school officials should not contact the student's parent, guardian or legal/physical custodian except as authorized by law enforcement officials. (Refer to Policy JLF) The principal or his/her designee will be present during questioning unless he/she is prohibited by law enforcement officials or the student requests that the principal or his/her designee not be present.

Efforts will be made to avoid drawing attention to the student being questioned by conducting the interrogation in private and with as little disruption to the schedule as possible.

It is the responsibility of the law enforcement official questioning to comply with all applicable procedural safeguards. District personnel are not responsible for a law enforcement official's compliance with the law. If the student or his/her parent/guardian or legal/physical custodian refuses to consent to questioning by the law enforcement officials, it is the law enforcement official's responsibility to respond appropriately to such refusal.

B. Searches

The principal or his/her designee may request that a search on school premises, or attending a school-sponsored activity, be conducted by a law enforcement officer. When law enforcement authorities are involved in the search, the search will be conducted under criminal law standards rather than under the provisions of this policy.

When law enforcement officers respond to such a request, no school employee will assist or otherwise participate in the search unless under the direct enforceable order of the law enforcement officer.

If law enforcement personnel seek permission from school authorities to search a student, a student's property or school property to obtain evidence related to criminal activities, school officials will require law enforcement to produce a valid search warrant before the search is conducted unless;

1. There is un-coerced consent by the student.
2. There is probable cause and circumstances such that taking the time to obtain a search warrant would frustrate the purpose of the search.
3. The search is incident to an arrest and is limited to the person and his immediate surroundings.

Student Statements or Admissions

The District will not use a student's statement concerning an act alleged to have been committed by that student that results in mandatory expulsion in an expulsion hearing, unless the statement is signed by the student, and a parent, guardian or legal/physical custodian is present when the student signs the statement or admission, or a reasonable attempt was made to contact the parent, guardian or legal/physical custodian to have the parent, guardian or legal/physical custodian present when the student signed the statement. The school is deemed to have made a "reasonable attempt" if the school calls each of the phone numbers the parent, guardian or legal/physical custodian provided to the school or all the phone numbers provided by the student for the parent, guardian or legal/physical custodian.

Notwithstanding the above, the student and his or her parent, guardian or legal/physical custodian may expressly waive the requirement that the parent, guardian or legal/physical custodian be present when the student signs a statement or admission. The express waiver must be in writing and may be obtained only after full advisement of the student and the parent, guardian or legal/physical custodian of the student's rights prior to the signing of the statement or admission.

The requirements for the presence of a parent, guardian or legal/physical custodian do not apply if the student makes any deliberate misrepresentations affecting the applicability or requirements of the above provisions, and a school official, acting in good faith and in reasonable reliance on such deliberate misrepresentations, obtains a signed statement or admission of the student that does not comply with the requirements set forth above.

The requirements for the presence of or waiver by a parent, guardian or legal/physical custodian do not apply to a fact-finding or information-gathering investigation by a school or school employee.

Appeals

Within 10 school days after a search, the student may appeal the search decision to the superintendent or designee who will investigate the reason(s) and circumstances of the search. The superintendent or designee will issue written findings within five school days after receiving the appeal. The superintendent's decision will constitute the final District determination.

Adopted September 1972
Revised September 1983
Revised December 1994
Revised August 1995
Revised March 2003
Revised October 2008
Revised June 27, 2012
Reviewed September 9, 2015
Reviewed September 12, 2018

LEGAL REFS.: C.R.S. 9-1-101 through 9-1-106
 C.R.S. 22-3-101 through 22-3-104
 C.R.S. 22-32-109.1
 C.R.S. 22-32-110 (1) (k)
 C.R.S. 22-32-124 (2), (3)
 C.R.S. 22-33-106.3(1)

C.R.S. 24-10-106.5

C.R.S. 26-5.7-104

CROSS REFS.:

ADD, Safe and Secure Schools

ADD-R-1, Safe and Secure Schools Plan

EBCA, Disaster Plans

ECA/ECAB, Security/Access to Buildings

JICDE, Bullying Prevention and Education

JLCE, First Aid and Emergency Medical Care

JLF, Reporting Child Abuse/Child Protection

JLF-R, Reporting Child Abuse/Child Protection Regulation

KLK, Relations with Law Enforcement Authorities