

The Vanguard School

POLICY: Vanguard JIH – Student Interrogations, Searches, and Arrests

POLICY ADOPTED: 11-13-17

The Board of Directors seeks to maintain a climate in the schools that 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, or the possession of which is a violation of law, school policies or rules, or poses the risk of a substantial disruption to the learning environment of the school.

Interviews by school administrators

When a violation of law, Board policy or school rules occurs, the school official may question potential student victims and witnesses without prior consent of the student's parent/guardian, except, in accordance with 22-33-106.3, C.R.S, if the school official plans to use in an expulsion hearing a student's statement admitting guilt for possession of a dangerous weapon without the authorization of the school; the use, possession, or sale of a drug or controlled substance as defined in section 18-18-102(5), C.R.S; or the commission of an act that, if committed by an adult, would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S., other than the commission of an act that would be third degree assault under section 18-3-204, C.R.S., if committed by an adult; then the statement of admission by the student must be in a writing signed by the student with that student's parent or guardian present. The parent or guardian's presence is not necessary if the school official attempts to call every phone number available for each parent and/or guardian and is unable to obtain a response. If a school official is investigating a report of child abuse and the suspected perpetrator is a member of the student's family, no contact with the student's family will be made.

Interrogations by school administrators

In situations where a student is suspected of violating the law, Board policies or school rules, the school official may interrogate the suspected student if the school official has reasonable grounds to suspect that such a violation has occurred. The nature and extent of the questioning must be reasonably related to the objectives of the questioning. If the student denies any involvement or culpability, the student will have the opportunity to present his or her side of the story, orally or in writing. If the suspected offense is a violation of criminal law, the school official may involve law enforcement, as appropriate.

Searches conducted by school personnel

School personnel may search a student and/or the student's personal property while on school premises or during a school activity when the school personnel has reasonable suspicion to believe the student acted or is acting in violation of the law, school policies or rules or is in possession of illegal, unauthorized, or contraband materials, in accordance with this policy and may seize any illegal, unauthorized or contraband materials.

Whenever possible, the student shall be informed of the reason(s) for conducting the search and the student's permission to perform the search shall be requested, but is only required if the school official does not have reasonable suspicion to conduct the search. A student's failure to cooperate with school officials conducting a search, when the school official has reasonable suspicion to conduct the search, shall be considered grounds for disciplinary action.

Search of school property

School lockers, desks, and other storage areas owned by the school are school property and remain at all times under the control of the school. Students do not have any reasonable expectation of privacy for items being kept or stored in school owned storage areas or property. All such lockers, desks and other storage areas, as well as their contents, are subject to inspection at any time, with or without notice.

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

Search of the student's person or personal effects

The school official may search the person of a student or a student's personal effects such as a purse, backpack, book bag, or briefcase on school property or at school-sponsored events or activities if the school official has reasonable grounds to suspect that the search will uncover:

- a. Evidence of a violation of Board and/or school policies, school rules, or federal, state, or local laws.
- b. Anything that, because of its presence, presents an immediate danger of physical harm or illness to any person.

Search of the person shall be limited to the student's pockets, any object in the student's possession such as a purse, backpack, book bag, or briefcase, and a "pat down," by a school official of the same sex, of the exterior of the student's clothing.

The extent of the search of a student's person or personal effects, as well as the means to conduct the search, must be reasonably related to the objectives of the search and the nature of the suspected violation. A school official may not conduct the search beyond what is reasonable to satisfy the reasonable grounds for the search. Additionally, school officials conducting the search shall be respectful of privacy considerations, in light of the sex and age of the student.

To the extent possible, searches of the person shall be conducted out of the presence of other students and as privately as possible by a person of the same sex as the student being searched. At least one person of the same sex as the student being searched shall witness, but does not need to participate in the search unless, a "pat-down" is being conducted.

Searches of a student's person and/or personal effects may be conducted without the prior consent of the student's parent/guardian. However, the parent/guardian of any student searched shall be notified of the search as soon as reasonably possible.

Searches of the person which may require removal of clothing other than a coat or jacket shall be referred to a law enforcement officer. School personnel shall not participate in such searches.

Parking Lot Searches

The privilege of bringing a student-operated motor 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/guardian, or owner of the vehicle to allow access to a motor vehicle on school premises at the time of a request to search the vehicle shall be cause for termination without further hearing of the privilege of bringing the vehicle on to school premises. Refusal to submit to search, when reasonable suspicion is present to conduct the search, also may result in disciplinary action and notification of law enforcement officials.

Routine patrolling of student parking lots and inspection of the outside of student automobiles shall be permitted at all times.

Seizure of items

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

1. Seized and offered as evidence in any suspension or expulsion proceeding. Such material shall be kept in a secure place by the assistant principal until it is presented at the hearing.

2. Returned to the student or the parent/guardian.
3. Turned over to a law enforcement officer in accordance with this policy.

Any items seized in accordance with this policy should be placed in a sealable container, like a zip-lock bag or manila envelope, marked with the date and name of the student from whom the item was seized, and stored in a safe place that is lockable. A log should be kept of when the item is removed from the safe place and by whom, and when it is placed back in the safe place, until such time as it is properly disposed of.

Appeals

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

Law enforcement officers' involvement

Interrogations and interviews

When law enforcement officials request permission to question students when students are in school or participating in school activities, the assistant principal or designee shall ascertain that the law enforcement officer has proper identification. Except when law enforcement officers have a warrant or other court order, or when an emergency or other exigent circumstances exist, such interrogations and interviews are discouraged during students' class time.

It is the responsibility of the law enforcement officer interviewing student witnesses or interrogating student suspects to assure compliance with all applicable procedural safeguards. Upon request by law enforcement to interview a student witness or interrogate a student suspect, school officials shall make an effort to notify the student's parent/guardian, except in cases involving investigation of reported child abuse where the suspected perpetrator is a member of the student's family, when law enforcement has a court order directing that the student's parent/guardian not be notified, or when an emergency or other exigent circumstances exist. However, whether or not to postpone the interview or interrogation until the parent/guardian arrives is generally the law enforcement officer's decision.

Search and seizure

The assistant principal or designee may request a search on school premises be conducted by a law enforcement officer. It is expected that searches by law enforcement will be conducted in accordance with the requirements of this policy and applicable law.

Custody and/or arrest

Students will be released to law enforcement officers if the student has been placed under arrest or if the student's parent/guardian and the student consent to such release. When a student is removed from school by law enforcement officers for any reason, school officials will make reasonable efforts to notify the student's parent/guardian.

It is expected that all procedural safeguards prescribed by law are followed by law enforcement officers conducting student arrests. However, school staff is not responsible for an officer's legal compliance when arresting a student.

LEGAL REFS.: C.R.S. 19-2-511 et seq.

C.R.S. 22-32-109.1(2)(a)(VIII)
(policy required as part of safe schools plan)

Revised May 2008