

SEARCH AND SEIZURE

To maintain order and discipline in the schools and to protect the safety and welfare of students and school personnel designates, school authorities (i.e. Principal or his/her designee) may search a student, student lockers, or student automobiles under the circumstances outlined below and may seize any item dangerous to the health or safety of students or school personnel, or disruptive of any lawful function, mission or process of the school, or any item described as illegal in school rules. This shall include items determined to be dangerous weapons (Policy JDF), or drugs (Policy JDD), and identified in W V State Code. School authorities shall verify that all students have received and are aware of the contents of this policy.

I. General Provisions

The courts have held that school officials may search students and their belongings if there is a reasonable suspicion that the search will uncover evidence of illegal activity. This is significantly different from the standard of "probable cause" which law enforcement officials must follow. The courts have held that the danger to the students and staff must be considered in determining the nature of the search.

II. Searches of School Buildings and Grounds

The following procedures are recommended when it is necessary to search the school and/or a student's possessions. Student desks and lockers are the property of the school, and school officials reserve the right to search desks and lockers. Whenever possible, the administration will advise students in advance of the search. A general search of lockers or desks may be conducted to repossess school property or to locate illegal materials.

- A. Sequester the student or students suspected of having the illegal property. It is always best to keep the students under surveillance and out of communication with other students and staff.
- B. Secure the school or the section of the school in which there is reason to believe the illegal material may be found. It is especially important to secure toilet areas, hallways, and exits quickly to prevent students from disposing of illegal material.
- C. Conduct the search with the necessary precision, but also do it as rapidly as possible. Two person search teams should be used if at all possible.

- D . If illegal material is found, carefully note and record in writing as soon as possible the description of the material and the exact location where it was found. If it is practical, secure the area where the illegal material is found.
- E . Suspected bombs or other explosive devices normally should not be moved, because to do so may set off the device. If an object suspected to contain explosives is found, the building, or section of the building, should be evacuated and the police and fire officials notified.
- F . Maintain a chain of custody verification for illegal or suspect material. Every custody change of the illegal material should be verified by a Chain of Custody Form, which contains a description of the illegal material, the date and time of the custody change, signatures of the person relinquishing the custody and the person receiving custody.
- G . Be alert to the possibility of a "plant" of illegal material in a student's locker or possession by another student who wants to:
 1. Get the illegal material out of his or her own possession; and/or
 2. "Set up" the other student to get him or her in trouble.
- H . Restore the school to normal operations as quickly as possible.
- I . If no evidence was found, the students and staff should be so informed.

III. Personal Searches

- A . A student's person and/or personal effects (e.g. purse, book bag, etc.) may be searched whenever a school authority has reasonable suspicion to believe that the student is in possession of items (as previously identified), or has violated, or is about to violate the law or a school rule.
- B . If a pat-down search of a student's clothing is conducted, it will be a non-intrusive search, conducted in private by a school official of the same sex and with an additional adult witness present.
- C . If the school official has reasonable suspicion to believe that the student has on his or her person an item inherently dangerous, or items that cannot be verified through a general, non-intensive search, the school official shall contact the appropriate law enforcement officials.
- D . Physically touching the student should be avoided if at all possible.

IV . Automobile Searches

- A . Students are permitted to park on school premises as a matter of privilege. The school retains authority to conduct routine patrols of student parking lots and inspections of the exteriors of student automobiles on school property. The interiors of student vehicles may be visually inspected whenever a school authority has reasonable suspicion to believe that items (as previously identified) or otherwise prohibited activities are contained inside. Such patrols and inspections may be conducted without notice, without student consent, and without a search warrant.

V . Seizure of Illegal Materials

- A . If a properly conducted search yields illegal or contraband materials, such findings shall be turned over to proper legal authorities for action and disposition.

SOURCE : Board of Education Minutes

DATE : June 26, 1995 – August 28, 1995 – May 22, 2000 – April 8, 2002

LEGAL REFERENCES : State vs Joseph T. 175 W V 598, 336, S.E. 2d 728 (1985)
State vs Mark Anthony B. (1993)
W V Code §60A -1-101, §60A -2-201-213, §18A -5-1, §18A -5-1a, §61-7-2, §61-7-10, §61-7-11, §61-7-11a, §18A -5-1, §18A -5-1a, "Gun Free Schools Act" Public Law 103-382, State Board of Education Policy No. 242-2-5.

CHAIN OF CUSTODY FORM
(To be used with Hardy County Policy JDG -Search and Seizure)

DESCRIPTION OF SUSPECT MATERIAL:

LOCATION FOUND:

DATE FOUND: _____ TIME FOUND: _____

SIGNATURE OF PERSON(S) FINDING SUSPECT MATERIAL: _____

OTHER WITNESSES: _____

CUSTODY CHANGES:

FROM	TO	DATE	TIME
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

