

# Washington West Supervisory Union Model Policy

## Policy F3

### **F3: SEARCH, SEIZURE, AND INTERROGATION OF STUDENTS BY SCHOOL PERSONNEL**

The member district schools of the Washington West Supervisory Union: Fayston Elementary School, Harwood Union High School, Moretown Elementary School, Waitsfield Elementary School, Warren Elementary School, and the Waterbury/Duxbury Union School District (Crossett Brook Middle School and Thatcher Brook Primary School) seek to provide a safe learning environment, maintain school property to assure the safety and enjoyment of students, school employees, and the general public, and extend the useful life of the school facilities.

To carry out this policy a member district school retains the right to examine its property at any time. In addition, school officials may search students and search or seize student property upon reasonable grounds for suspecting that the search will reveal evidence of a violation of law or a school rule.<sup>1</sup> In evaluating the reasonable grounds for a search, the school officials should consider the reliability of the information he or she has received, the availability of corroborating evidence, the severity of the suspected infraction, and the intrusiveness of the search to be carried out.<sup>2</sup>

A summary of this policy will be included in the student handbook given to students and parents at the beginning of each school year. Additionally this policy will be made available at school and online. This policy is meant to explain the legal rights of the school district, but is not meant to limit them in any way.

#### **Searches and Seizure of School Property**

Desks, lockers, textbooks, computers, and other materials or supplies loaned by the school to students remain the property of the school, and may be opened and inspected by school employees at any time. When prohibited items are found in school property they will be confiscated and a report will be made to the Principal who will determine whether further investigation is warranted.

#### **Search and Seizure of Student and Student Property**

Searches of students' persons, personal effects and vehicles<sup>3</sup> may be conducted where there are reasonable grounds for suspecting at the time of initiating the search that the search will reveal evidence of a violation of law or of school rules. The scope of the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the student's age and sex and the nature of the infraction.

A search of a student's person will be conducted by a school employee of the same sex and, whenever possible, in the presence of another school employee. A strip search is overly intrusive for the purpose of most student searches.<sup>4</sup> A strip search will be conducted only after consultation with the school district's legal counsel.

Students who participate in competitive extracurricular activities may be required to submit to drug testing by the school as a condition of participation in those activities even without a particularized suspicion of drug use.<sup>5</sup> If the school district decides to implement such a drug testing policy, it will adopt specific procedures for that purpose.

## **Interrogation of Students**

School district employees may detain students to question them regarding violations of law or school rules if reasonable in light of the possible infraction and the degree of suspicion.<sup>6</sup> School officials may act on information related to violations received from outside law enforcement personnel. School officials are not required to notify parents of interrogations of students.<sup>7</sup>

A School Resource Officer is not considered a school district employee for the purpose of interrogations.

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Legal Reference(s): Safford Unified School District #1 v. April Redding, 77 U.S.L.W. 4591 (U.S. Supr. Ct. 2009)  
New Jersey v. T.L.O., 469 U.S. 325, 105 S. Ct. 733 (1985)  
Vernonia School District v. Acton, 515 U.S. 646, 115 S. Ct. 2386 (1995)  
Board of Education v. Earls, 122 S. Ct. 2559 (2002)  
Doe v. Little Rock School District, 380 F.3d 349 (8th Cir. 2004)  
Phaneuf v. Fraikin, No. 04-4783 (2d Cir. May 19, 2006)  
Wofford v. Evans, 390 F.3d 318 (4<sup>th</sup> Cir. 2004)  
Shuman v. Penn Manor School Dist., 422 F.3d 141 (3d Cir. 2005)  
In re Randy G., 110 Cal. Rptr. 2d 516 (Cal. 2001)  
Cross References: WWSU Searches, Seizures and Interrogation of Students (F4)  
WWSU Student Conduct and Discipline (F1)  
WWSU Student Alcohol and Drugs (F7)

The following references are included for informational purposes only and should not be construed to alter, amend or limit the plain meaning of this policy.

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<sup>1</sup> *New Jersey v. T.L.O.* 469 U.S. 325, 105 S. Ct. 733 (1985). However, random suspicionless searches of student property are not permitted. *Doe v. Little Rock School District*, 380 F.3d 349 (8th Cir. 2004).

<sup>2</sup> An example of a search that was not justified is described in *Phaneuf v. Fraikin*, No. 04-4783 (2d Cir. May 19, 2006). The court held that a strip search was unreasonable when the principal failed to corroborate another student's report that the student had hidden marijuana in her pants. Neither the discovery of cigarettes in the student's purse, nor the fact that the student had previously been disciplined for unrelated action, were a sufficient basis to suspect the presence of drugs.

<sup>3</sup> Schools may obtain blanket permission to search vehicles that students drive to school and park in the school parking lot by requiring students to consent to such inspections as a condition of obtaining a permit for parking on school grounds. Without consent of this sort, school officials who wish to search student vehicles need reasonable suspicion that the search will provide evidence of a violation of law or school rules.

<sup>4</sup> In *Safford Unified School District #1 v. April Redding*, 77 U.S.L.W. 4591 (2009), the United States Supreme Court held that an intrusive strip search of a 13 year old girl by school officials who had reasonable suspicion that she had brought forbidden prescription drugs to school exceeded the school's Constitutional authority. The personal intrusiveness of the search required that it be treated as "categorically distinct, requiring distinct elements of justification on the part of school authorities for going beyond a search of outer clothing and belongings."

<sup>5</sup> *Vernonia School District v. Acton*, 515 U.S. 646, 115 S. Ct. 2386 (1995), upheld the use of random drug testing for student athletes. *Board of Education v. Earls*, 122 S. Ct. 2559 (2002), extended the use of random drug testing to middle and high school students participating in other competitive extracurricular activities, such as choir or debate club. In both cases the intrusion into the student's privacy was considered minimal where school employees listened outside the bathroom stall while the student provided a urine sample for testing. Additional precautions should be taken to protect the results of the tests and to protect the student's medical privacy.

<sup>6</sup> These guidelines come from *Shuman v. Penn Manor School Dist.*, 422 F.3d 141 (3d Cir. 2005). At least one jurisdiction has taken a broader view of the power of school officials to question students, stating that school officials may interrogate students freely as long as the questioning is not arbitrary, capricious, or harassing. *In re Randy G.*, 110 Cal. Rptr. 2d 516 (Cal. 2001). Since it is unclear which approach will be followed in Vermont, this policy states the more restrictive view.

<sup>7</sup> *Wofford v. Evans*, 390 F.3d 318 (4<sup>th</sup> Cir. 2004). Although parental notification is not required for interrogations, there may be obligations under the school's discipline or suspension policies that require notification.