

SEARCH AND SEIZURE

The Governing Board recognizes that incidents may occur which jeopardize the health, safety and welfare of students and staff. Such incidents may necessitate the search and/or seizure of students, their property, and their lockers by school officials.

(cf. 5153 - Questioning and Apprehension)

School officials may search individual students and their property and District property under their (students') control when there is a reasonable suspicion that the search will uncover evidence that the student is violating the law or the rules of the District or the school. The Board urges that discretion, good judgment and common sense be exercised in all cases of search and seizure.

When possible, staff may use a metal detector when searching an individual for weapons.

The parent/guardian of a student subjected to an individualized search shall be notified by the District as soon after the search as possible.

Student Lockers

Because lockers are under the joint control of the students and the District, school officials shall have the right and ability to open and inspect any school locker without student permission when they have reasonable suspicion that the search will disclose evidence of illegal possessions or activity or when odors, smoke, fire and/or other threats to student health, welfare or safety emanate from the locker.

For health and safety reasons, a general inspection of school properties such as lockers and desks may be conducted on a regular, announced basis, with students standing by their lockers or desks. Any items contained in a locker shall be considered to be the property of the student whom the locker was assigned. Notice of this policy shall be given to all students when lockers are assigned.

The Board finds that the growing presence of weapons in public schools threatens the District's ability to provide the safe and orderly learning environment to which our students and staff are entitled. The Board also finds that random searches offer a reasonable means to keep weapons out of the schools and mitigate the fears of students and staff.

The Superintendent or designee shall establish procedures which ensure that metal detector searches are conducted in a consistent manner which minimizes or eliminates arbitrary and/or capricious enforcement by school officials.

SEARCH AND SEIZURE (continued)

(cf. 3515 - School Safety and Security)
(cf. 5143.2 - Alcohol and Other Drugs)
(cf. 5145 - Weapons and Dangerous Instruments)
(cf. 5152 - Suspension and Expulsion/Due Process)

In an effort to keep the schools free of drugs, the District may use specially trained non-aggressive dogs to sniff out and alert staff to the presence of substances prohibited by law or District Policy. The dogs may sniff the air around lockers, desks, bags, items or vehicles on District property or at District-sponsored events as long as they are not allowed to sniff any person. Items shall not be sniffed if a person is close by.

The above inspections shall be unannounced and may be made at the discretion of the Superintendent or designee.

Students and parents/guardians shall be informed of this policy at the beginning of each school year.

Individual Searches

In determining whether reasonable suspicion exists, school officials shall consider:

1. The student's age and previous behavior patterns.
2. The prevalence and seriousness in the school of the problem to which the search was directed.
3. The urgency requiring the search without delay.
4. The substantive value and reliability of the information used as a justification for the search.
5. The location of the student at the time of the incident which gave rise to reasonable suspicion.

Searches shall be conducted in the presence of at least two District employees. Employees will not conduct strip searches or body cavity searches.

SEARCH AND SEIZURE (continued)

Random Search for Weapons

Upon enrollment and at the beginning of each school year, students and parents/guardians shall receive notice that the District uses random metal detector scans as part of its program to promote safety and deter the presence of weapons. Signs shall be posted at all schools to explain that anyone may be scanned by metal detector for guns, knives or other illegal weapons when on campus or attending athletic or extracurricular events.

The following procedures shall be followed when making metal detector scans:

1. Before walk-through, students shall be asked to empty their pockets of metal objects.
2. After an initial activation occurs, students shall be asked to walk through a second time.
3. If a second activation occurs, a hand-held metal detector will be used.
4. If the activation is not eliminated or explained, staff shall escort the student to a private area.
5. In the private area, an expanded search shall be conducted by a staff member of the same sex as the student.
6. The search shall be limited to the detection of weapons.

Use of Trained Dogs

Dogs shall not be used in rooms occupied by persons except for demonstration purposes, with the handler present. When used for demonstration purposes, the dog may not sniff the person of any individual and shall be well separated from the audience.

Only the dog's official handler will determine what constitutes an alert by the dog. If the dog alerts on a particular item or place, the student having the use of that place or responsibility for it shall be called to witness the search. If a dog alerts on a locked vehicle, the student who brought it onto district property shall be asked to unlock it for inspection.

(cf. 5150 - Discipline)

(cf. 5152 - Suspension and Expulsion/Due Process)

Legal Reference: (see next page)

SEARCH AND SEIZURE (continued)

Legal Reference:

EDUCATION CODE

35160 *Authority of governing boards*

35160.1 *Broad authority of school districts*

35294-352994.5 *School safety plans*

49050-49051 *Searches by school employees*

49330-49334 *Injurious objects*

PENAL CODE

626.9 *Firearms*

626.10 *Dirks, daggers, knives or razor; bringing into or possession of upon or within public school ground; exception*

75 *Ops.Cal.Atty.Gen. 155 (1992)*

83 *Ops.Cal.Atty.Gen .257 (2000)*

BC v. Plumas, (9th Cir. 1999) 192 F.3rd 1260

New Jersey v. T.L.O. (1985) 469 U.S. 325

Zamora v. Pomeroy (10th Cir. 1981) 639 F.2d 662

Horton v. Goose Creek Independent School District (5th Cir. 1982) 690 F.2d 470

O'Connor v. Ortega (1987) 107 S.Ct. 1492

Policy
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CAPISTRANO UNIFIED SCHOOL DISTRICT
San Juan Capistrano, California