

Searching, Confiscation and Screening Protocol

Term of policy: Every 3 years

Approved by: Board of Trustees

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Consulted with JCC? Yes ☐ No ☒

Introduction

This policy replaces any previous policy and follows the DfE regulations.

In line with the School's Equal Opportunities and Special Educational Needs policies, we aim to give all students equal opportunities to take part in all aspects of School life, as far as is appropriate, practicable and compatible with giving regard to health and safety and the efficient education of other students.

The policy will follow the five principles of the Children's Plan:

- to support parents and families
- to allow children to reach their full potential
- to enable children to enjoy their childhood whilst preparing for adult life
- to provide services in response to children and family needs
- to use preventative measures to help students avoid the possibility of failure

This policy is based upon the School's commitment to the development and maintenance of good behaviour and a positive and inclusive ethos for all members of the School community.

Summary of Procedure

Searching

Authorised staff detailed by the Headteacher have a statutory power to search students or their possessions, without consent, where they have reasonable grounds for suspecting that the students may have a prohibited item. Prohibited items are: -

1. Knives or weapons
2. Alcohol
3. Illegal drugs and drug paraphernalia
4. Stolen items
5. Tobacco, vaporisers, lighters, matches and cigarette papers
6. Fireworks
7. Pornographic material
8. Any article that the member of staff reasonably suspects has been, or is likely to be used to commit an offence or cause personal injury or damage to the property of any person or the School environment.

Confiscation

School staff can seize any prohibited item found as a result of a search. They can also seize any item they consider harmful or detrimental to school discipline.

Screening

The School may require students to undergo random screening by a hand held metal detector, even if they do not suspect them of having a weapon and without the consent of the students. The School's statutory power to make rules on student behaviour and their duty as an employer, in order to manage the safety of staff, students and visitors, enables them to impose a requirement that students may undergo screening.

Detailed Procedure of Screening, Searching & Confiscation

Searching

1. Authorised School staff can search students for any item.
2. The School is not required to have formal written consent from the student for this sort of search – it is enough for the authorised member of staff to ask the student to turn out his or her pockets or if the authorised member of staff can look in the student's bag or locker and for the student to agree. Staff must be supported by any other member of staff as a witness. No search should take place without a member of staff as a witness.
3. The School makes clear in the School Behaviour for Learning Policy and in communications to parents and students what items are banned.
4. If an authorised member of staff suspects a student of having a banned item in his/her possession, (with a staff witness present), they can instruct the student to turn out his/her pockets or bag and if the student refuses, the authorised member of staff can apply an appropriate punishment as set out in the School's Behaviour for Learning Policy.
5. A student refusing to co-operate with such a search raises the same kind of issues as where a student refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, the School can apply an appropriate disciplinary sanction.

What can be searched for?

1. Knives or weapons, alcohol, illegal drugs, drug paraphernalia and stolen items
2. Tobacco and cigarette papers, fireworks and pornographic images; and
3. Any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury, or damage to School environment; and
4. Any other item banned by the school which has been identified as an item which may be searched for.

Who can search?

1. Heads of Year, Student Support Hub staff and members of the STRP group authorised by the Headteacher.

Under what circumstances?

1. You must be the same sex as the student being searched; and there must be a witness (also a staff member) and, if possible, they should be the same sex as the student being searched.
2. There is a limited exception to this rule. You can carry out a search of a student of the opposite sex to you and/or without a witness present, but only where you reasonably believe that there is a risk that serious harm will be caused to a person if you do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

When a search can take place?

1. If you have reasonable grounds for suspecting that a student is in possession of a prohibited item.
2. The requirement that the searcher is the same sex as the student and that a witness is present will continue to apply in nearly all searches. Where it is practicable to summon a staff member

of the same sex as the student and a witness, then the authorised member of staff wishing to conduct a search must do so.

Authorising members of staff

1. The Headteacher decides who is authorised to use these powers and are named 'authorised members of staff responsible for searching'. There is no requirement to provide authorisation in writing.

Establishing grounds for a search

1. Authorised staff can only undertake a search without consent if they have reasonable grounds for suspecting that a student may have in his or her possession a prohibited item. The authorised member of staff must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other students talking about the item or they might notice a student behaving in a way that causes them to suspect that the student is concealing a prohibited item. They may also have been informed of this by another member of staff.
2. In the exceptional circumstances when it is necessary to conduct a search of a student of the opposite sex or in the absence of a witness, the authorised member of staff conducting the search should bear in mind that a student's expectation of privacy increases, as they get older.
3. The powers allow School staff to search regardless of whether the student is found after the search to have that item. This includes circumstances where staff suspect a student of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.
4. School staff may wish to consider utilising CCTV footage in order to make a decision as to whether to conduct a search for an item.

Location of a search

1. Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the student, for example on school trips or in training settings.

During the search

Extent of the search – clothes, possessions and lockers

1. The authorised member of staff conducting the search may not require the student to remove any clothing other than outer clothing.
2. 'Outer clothing' means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but 'outer clothing' includes hats; shoes; boots; gloves and scarves.
3. 'Possessions' means any goods over which the student has or appears to have control – this includes lockers and bags.
4. A student's possessions can only be searched in the presence of the student and another member of staff, except where there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

Lockers

1. Under common law powers, the School is able to search lockers for any item provided the student agrees. The School can also make it a condition of having a locker, that the student consents to have their locker searched for any item whether or not the student is present.

After the search

The power to seize and confiscate items – general

1. The School's general power to discipline, as circumscribed by Section 91 of the Education and Inspections Act 2006, enables a member of staff to confiscate, retain or dispose of a student's property as a disciplinary penalty, where reasonable to do so.
2. The authorised member of staff can use their discretion to confiscate, retain and/or destroy any item found as a result of a search so long as it is reasonable in the circumstances. Where any article is reasonably suspected to be an offensive weapon, it must be passed to the police.
3. Staff have a defence to any complaint or other action brought against them. The law protects members of staff from liability in any proceedings brought against them for any loss of, or damage to, any item they have confiscated, provided they acted lawfully.

Items found as a result of a search

1. The authorised member of staff carrying out a search can seize anything they have reasonable grounds for suspecting is a prohibited item or is evidence in relation to an offence.
2. Where the authorised member of staff conducting a search finds alcohol, they may retain or dispose of it. This means that the School can dispose of **alcohol** as they think appropriate but this should not include returning it to the student.
3. Where the authorised member of staff finds **controlled drugs**, these must be delivered to the Police as soon as possible but may be disposed of if the authorised member of staff thinks there is a good reason to do so.
4. Where the authorised member of staff finds **other substances** which are not believed to be controlled drugs these can be confiscated where a they believe them to be harmful or detrimental to good order and discipline. This would include, for example, so called 'legal highs'. Where authorised staff suspect a substance may be controlled they should treat them as controlled drugs as outlined above.
5. Where the authorised member of staff finds **stolen items**, these must be delivered to the Police as soon as reasonably practicable – but may be returned to the owner (or may be retained or disposed of if returning them to their owner is not practicable) if the authorised member of staff thinks that there is a good reason to do so.
6. Where the authorised member of staff finds **tobacco, cigarette papers or drug paraphernalia** they may retain or dispose of them. As with alcohol, this means that the School can dispose of tobacco, cigarette papers or drug paraphernalia as they think appropriate but this should not include returning them to the student.
7. **Fireworks** found as a result of a search may be retained or disposed of but should not be returned to the student.
8. If an authorised member of staff finds a **pornographic image**, they may dispose of the image unless they have reasonable grounds to suspect that its possession constitutes a specified

offence (i.e. it is extreme or child pornography) in which case it must be delivered to the Police as soon as reasonably practicable.

9. Where an article that has been (or is likely to be) used to commit an offence or to cause personal injury or damage to property is found it may be delivered to the Police or returned to the owner. It may also be retained or disposed of.
10. Any **weapons or items which are evidence of an offence** must be passed to the Police as soon as possible.
11. The Designated Safeguarding Lead must be informed immediately of any items found.

The disposal of controlled drugs and stolen items

1. It is up to the authorised member of staff in liaison with the Headteacher to decide whether there is a good reason not to deliver stolen items or controlled drugs to the Police.
2. In determining what is a 'good reason' for not delivering controlled drugs or stolen items to the Police, the authorised member of staff should take into account all relevant circumstances and use their professional judgement to determine whether they can safely dispose of a seized article.
3. Where the authorised member of staff is unsure as to the legal status of a substance and have reason to believe it may be a controlled drug they should treat it as such.
4. With regard to stolen items, it would not be reasonable or desirable to involve the Police in dealing with low value items such as pencil cases. However, authorised members of staff may judge it appropriate to contact the Police if the items are valuable (iPods/laptops) or illegal (alcohol/fireworks).

Dealing with electronic devices

1. Where the authorised member of staff conducting the search finds an electronic device that is prohibited by the school rules or that they reasonably suspects has been, or is likely to be, used to commit an offence or cause personal injury or damage to property, they may examine any data or files on the device where there is a good reason to do so. They may also delete data or files if they think there is a good reason to do so, unless they are going to give the device to the Police.
2. There is no need to have parental consent to search through a student's mobile phone if it has been seized in a lawful search and is prohibited by the School rules or is reasonably suspected of being, or being likely to be, used to commit an offence or cause personal injury or damage to property.
3. In determining a 'good reason' to examine or erase the data or files the authorised staff member should reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching and learning or break the School rules.
4. If an electronic device that is prohibited by the School rules has been seized and the authorised member of staff has reasonable grounds to suspect that it contains evidence in relation to an offence, they must give the device to the Police as soon as it is reasonably practicable. Material on the device that is suspected to be evidence relevant to an offence, including a pornographic image of a child or an extreme pornographic image, should not be deleted prior to giving the device to the Police.

5. If an authorised member of staff does not find any material that they suspect is evidence in relation to an offence, and decides not to give the device to the Police, they and the Headteacher decide whether it is appropriate to delete any files or data from the device or to retain the device as evidence of a breach of School discipline.
6. All School staff should be aware that behaviours linked to sexting put a child in danger. Governing bodies should ensure sexting and the School's approach to it is reflected in the child protection policy.

Telling parents and dealing with complaints

1. The School is not required to inform parents before a search takes place or to seek their consent to search their child.
2. There is no legal requirement to make or keep a record of a search.
3. The School should inform the individual student's parents or guardians where alcohol, illegal drugs or potentially harmful substances are found, though there is no legal requirement to do so.

Record of Incidents

1. A record of all searches, screening and seizures, together with a record of disposals, staff and students involved will be kept in a specified secure folder on the School network. All disposals must be authorised by the Headteacher.