

POLICY	5330
	Adopted: August 22, 2006 Revised: August 7, 2014 Revised: March 6, 2018
Student Policies	

SUBJECT: STUDENT SEARCHES AND INTERROGATIONS

The Greater Southern Tier BOCES Board is committed to ensuring an atmosphere on school property and at school functions that is safe and orderly. To achieve this kind of environment, any school official with supervisory responsibility over students may question a student about an alleged violation of law or the district code of conduct. Students are not entitled to any sort of “Miranda”-type warning before being questioned by BOCES administrators and employees, nor are BOCES administrators and employees required to contact a student’s parent before questioning the student. However, BOCES administrators and employees will tell all students why they are being questioned.

The Board acknowledges that students have the legal right, under both the state and federal constitutions, to be free from “unreasonable” searches of their person and/or possessions (e.g., pocket contents, book bags, handbags, cell phones, etc.). The Board also acknowledges and understands, however, that it is sometimes necessary to search students and/or their possessions in order to preserve order and discipline, to safeguard District property, and to protect the health safety, morals, and welfare of students, school personnel and school visitors.

Accordingly, the Board authorizes the District Superintendent, principals, principals of special education, assistant principals and assistant principals of special education to conduct searches of students and their belongings, if the authorized official has “reasonable suspicion” to believe that the search will result in or produce evidence that the student violated the law or the applicable component school district’s or BOCES’ Code of Conduct, school policies or rules.

Ordinarily, there must be reasonable suspicion to believe that the search of a particular student will turn up evidence that the particular student is violating the law or school rules.

However, “individualized” suspicion is not required in every case before public school officials can search students. For example, school officials may be able to conduct a “pat down” search of students under circumstances where the pat down is the least intrusive and most practical means of accomplishing a specific objective and represents a reasonable balance between students’ privacy rights and school officials’ interest in maintaining order and discipline. Similarly, an authorized official may conduct a search of a student’s belongings that is minimally intrusive, such as touching the outside of a book bag so long as the school official has a legitimate reason for the very limited search.

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In general, the legality of the search of a student or student’s belongings by school officials is determined by balancing the District’s legitimate justification to conduct the search against the student’s or students’ *expectation of privacy* in the area to be searched.

To determine whether a search by school officials is lawful, the courts evaluate two factors. The search must be:

1. “*Justified at its Inception*” – meaning that there must be “reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law or the rules of the school;” **and**
2. “*Permissible in Scope*” – meaning that the search measures used must be “reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.”

An authorized official may search a student or the student’s belongings based upon information received from a reliable informant. Individuals will be considered reliable informants if they have previously supplied information that was found to be accurate, if they make an admission against self-interest, if they provide the same information that is received independently from other sources, or if they appear to be credible and the information they are communicating relates to an immediate threat to safety.

Before searching a student or the student’s belongings, the authorized official should attempt to obtain an admission from the student that he or she possesses evidence of a violation of the law or the applicable component school district BOCES’ Code of Conduct, school policies or rules, and should further attempt to persuade the student to surrender the unlawful or unauthorized item or consent to the search (as warranted by the circumstances).

Whenever practicable, searches will be conducted in the privacy of administrative offices and students will be present when their possessions are being searched.

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Lockers, Desks and other School Storage Places

School lockers, desks and other storage spaces provided by the BOCES or component school districts for the convenience of students remain at all times the exclusive property of the BOCES. Students have no “expectation of privacy” in these spaces. This means that student lockers, desks and other school storage places may be subject to search at any time by school officials, without prior notice to students, without their consent, and with or without reasonable suspicion.

Strip searches

A strip search is a search that requires a student to remove any clothing other than an outer coat, jacket, shoes, socks or a hat. A strip search of a student at school is a highly invasive search that may only be conducted as a last resort, when an authorized officials has: (1) reliable information that the item a particular student is suspected of hiding is dangerous in terms of its “power or quantity;” and (2) reason to believe that the forbidden item is hidden in intimate places before conducting a strip search of the student in search of the item.

No authorized official shall conduct a strip search of a student, unless authorized in advance by the District Superintendent or school attorney, or unless the authorized official reasonably believes there is **imminent danger** to the life or safety of the student or others if the strip search is delayed for the purpose of obtaining approval from the Superintendent or school attorney. Such searches are to be conducted only in situations where a bona fide emergency exists, making it imperative to search a particular student without delay.

If the situation is serious enough to warrant the consideration of a strip search, law enforcement should be contacted immediately and the strip search should be delayed, if at all possible, until law enforcement has been afforded the opportunity to intervene and explore other protective measures. To the *maximum* extent possible, in view of the exigencies of the situation, in the rare case where a strip search is truly imperative, the strip search shall be conducted by an individual of the same sex as the individual being searched. An authorized official shall promptly notify the parent(s) of, or person(s) in parental relation to, any student who is subjected to a strip search by school personnel.

Law Enforcement

If law enforcement conducts or controls with the custody, interrogation or search of a student due to suspected criminal activity, such actions will be governed by applicable constitutional and other legal requirements for law enforcement.

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Law enforcement officers may not remove a student for questioning from a school setting nor may they interrogate a student in a school setting on a non-school-related matter while the student is properly in attendance without permission of a student’s parent or guardian unless such officers have a warrant for the student.

Documentation

An authorized school official who conducts a search of a student or student’s possession that results in the recovery of contraband or other evidence of violation of the law, applicable Code of Conduct, or other school policies or rules shall be responsible for promptly recording information about such search in the BOCES’ school software system or other recording medium.

The principal, principal of special education, assistant principal or assistant principal of special education shall be responsible for the custody, control and disposition of any illegal or dangerous items obtained from a student during a search. Such official shall retain control of the item(s), until the item is personally turned over to law enforcement.

Training

The BOCES will provide annual training to principals, principals of special education, assistant principals, and assistant principals of special education regarding the requirements of this policy.