

SUBJECT: SEARCHES AND INTERROGATIONS OF STUDENTS (SEARCHES AND QUESTIONING/INTERVIEWING OF STUDENTS)

Students are protected by the Constitution from unreasonable searches and seizures. A student may be searched and contraband/prohibited items seized on BOCES grounds or in a school building by an authorized BOCES official (as designated below) only when the BOCES official has reasonable suspicion to believe the student has engaged in or is engaging in proscribed activity which is in violation of the law and/or the rules of the BOCES (i.e., the BOCES Code of Conduct). The reasonableness of any search involves a twofold inquiry. BOCES officials must first determine whether the action was justified at its inception, and second, determine whether the search, as actually conducted, was reasonably related in scope to the circumstances which justified the interference in the first place.

Factors to be considered in determining whether reasonable suspicion exists to search a student include:

- a) The age of the student;
- b) The student's school record and past history;
- c) The predominance and seriousness of the problem in the BOCES where the search is directed;
- d) The probative value and reliability of the information used as a justification for the search;
- e) The BOCES official's prior knowledge of and experience with the student; and
- f) The urgency to conduct the search without delay.

If reasonable suspicion exists to believe that a student has violated or is violating the law and/or BOCES rules, it is permissible for an authorized BOCES official to search that student's outer clothing, pockets, or property. The search may include, but is not limited to, the student's outer clothing such as a jacket or coat, pockets, backpack, and/or purse. Whenever practicable, searches will be conducted by a staff member of the same sex as the student, and, whenever practicable, another staff member, will be present as a witness. If BOCES authorities believe there is an emergency situation that could threaten the safety of others, the student shall, to the extent practicable, be isolated and secured. Police and parents will be contacted immediately.

A BOCES official may search a student's belongings or the student based upon information from a reliable informant. Individuals, other than BOCES officials, will be considered reliable informants if they have previously supplied information that was accurate and verified; if they make an admission against their own interest; if they provide the same information that is independently received from other sources; or if they appear to be credible and the information that they are communicating relates to an immediate threat to health or safety. BOCES officials and staff will be considered reliable informants unless they are known to have previously supplied information that they knew was not accurate.

Before searching a student or the student's belongings, the authorized BOCES official should attempt to get the student to admit that he or she possesses the physical evidence that they violated the law or the Code of Conduct, or get the student to voluntarily consent to the search (of their bag, personal items, etc.). Searches will be limited to the extent necessary to locate the evidence sought.

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

Searches and Seizure of BOCES Property

Student desks, lockers, textbooks, computers, and other materials, supplies or storage spaces loaned by the BOCES to students remain the property of the BOCES, and may be opened and inspected by BOCES employees at any time. The purpose of these searches, when they occur, is to ensure the safety

of students, faculty and staff, enhance school security and prevent disruptions of the learning environment. Searches have been proven to have a deterrent effect on student behavior. Students have no reasonable expectation of privacy with respect to BOCES property; and BOCES officials retain complete control over such property. This means that student desks, lockers, textbooks, computers, and other materials, supplies or storage spaces may be subject to search and/or seizure of contraband/prohibited items at any time by BOCES officials, without prior notice to students and without their consent. However, a student's personal belongings contained within the locker, desk, etc. are subject to the reasonable suspicion standard for searches by an authorized school official.

Questioning of Students by BOCES Officials

BOCES officials have the right to question students regarding any violations of BOCES rules and/or illegal activity. In general, administration may conduct investigations concerning reports of misconduct which may include, but are not limited to, questioning students, staff, parents/guardians, or other individuals as may be appropriate and, when necessary, determining disciplinary action in accordance with applicable due process rights.

Should the questioning of students by BOCES officials focus on the actions of one particular student, the student will be questioned, if possible, in private by the appropriate BOCES administrator. The student's parent/guardian may be contacted; the degree, if any, of parental/guardian involvement will vary depending upon the nature and the reason for questioning, and the necessity for further action which may occur as a result.

The questioning of students by BOCES officials does not preclude subsequent questioning/interrogations by police authorities as otherwise permitted by law. Similarly, the questioning of students by BOCES officials does not negate the right/responsibility of BOCES officials to contact appropriate law enforcement agencies, as may be necessary, with regard to such statements given by students to BOCES officials.

BOCES officials acting alone and on their own authority, without the involvement of or on behalf of law enforcement officials (at least until after the questioning of students by BOCES authorities has been conducted) are not required to give the so-called "Miranda warnings" (i.e., advising a person, prior to any custodial interrogations as defined in law, of the right to remain silent; that any statement made by the individual may be used as evidence against him/her; and that the individual has the right to the presence of an attorney, either retained or appointed) prior to the questioning of students.

If deemed appropriate and/or necessary, the District Superintendent/designee may also review the circumstances with BOCES legal counsel so as to address concerns and the course of action, if any, which may pertain to and/or result from the questioning of students by BOCES officials.

Law Enforcement Officials

It shall be the policy of the BOCES that a cooperative effort shall be maintained between the BOCES administration and law enforcement agencies. Law enforcement officials may be summoned in order to conduct an investigation of alleged criminal conduct on BOCES premises or during a BOCES-sponsored activity, or to maintain the educational environment. They may also be summoned for the purpose of maintaining or restoring order when the presence of such officers is necessary to prevent injury to persons or property.

Administrators have the responsibility and the authority to determine when the assistance of law enforcement officers is necessary within their respective jurisdictions.

Interrogation of Students by Law Enforcement Officials

If police are involved in the questioning of students on BOCES premises, whether or not at the request of BOCES authorities, it will be in accordance with applicable law and due process rights afforded students. Generally, police authorities may only interview students on BOCES premises without the permission of the parent/guardian in situations where a warrant has been issued for the student's arrest (or removal). Police authorities may also question students for general investigations or general questions regarding crimes committed on BOCES property. In all other situations, unless an immediate health or safety risk exists, if the police wish to speak to a student without a warrant they should take the matter up directly with the student's parent/guardian.

Whenever police wish to question a student on BOCES premises, administration will attempt to notify the student's parent/guardian.

Unless prohibited by court order, questioning of a student by police should take place in private and in the presence of the Campus Principal/designee.

Documentation of Searches

The authorized school official conducting the search shall be responsible for promptly recording the following information about each search:

1. Name, age and grade of student searched.
2. Reason for the search.
3. Name of any informant(s).
4. Purpose of search (that is, what item(s) were being sought).
5. Type and scope of search.
6. Person conducting search and his or her title and position.
7. Witnesses, if any, to the search.
8. Time and location of search.
9. Results of search (that is, what item(s) were found).
10. Disposition of items found.
11. Time, manner and results of parental notification.

The building principal or the principal's designee shall be responsible for the custody, control and disposition of any illegal or dangerous item taken from a student. The principal or his or her designee shall be responsible for personally delivering dangerous or illegal items to police authorities.

Child Protective Services' Investigations

From time to time, Child Protective Services may desire to conduct interviews of students on BOCES property. Such interviews generally pertain to allegations of suspected child abuse and/or neglect. The Board encourages cooperation with Child Protective Services in accordance with applicable Social Services Law.

Education Law Sections 1604(9), 1604(30), 1709(2), 1709(33) and 2801
Family Court Act Section 1024
Social Services Law Sections 411-428
8 New York Code of Rules and Regulations (NYCRR) Section 100.2(l)

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