

BOARD AGENDA ITEM

March 8, 2022

SUBJECT:

Revision of the following policy and administrative rule:

Policy JIH Student Searches, Interrogations and Arrests, First Reading
Administrative Rule JIH-R Student Searches, Interrogations and Arrests

BACKGROUND INFORMATION:

Administration has recommended the revision of Policy KLG Relations with Law Enforcement Authorities and the adoption of Policy KLGA School Resource Officers. Policy JIH Student Searches, Interrogations and Arrests and Administrative Rule JIH-R Student Searches, Interrogations and Arrests require revisions to align to Policy KLG and Policy KLGA.

ADMINISTRATIVE CONSIDERATION:

Administration recommends the revision of Policy JIH Student Searches, Interrogations and Arrests and the adoption of Administrative Rule JIH-R Student Searches, Interrogations and Arrests. The revision of Policy JIH and the adoption of Administrative Rule JIH-R aligns with current practice and with Policies KLG Relations with Law Enforcement Authorities and the adoption of Policy KLGA School Resource Officers.

RECOMMENDATION:

Approve the following policy and administrative rule:

Policy JIH Student Searches, Interrogations and Arrests, First Reading
Administrative Rule JIH-R Student Searches, Interrogations and Arrests

ATTACHMENTS:

Policy JIH Student Searches, Interrogations and Arrests
Administrative Rule JIH-R Student Searches, Interrogations and Arrests

PREPARED BY:

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STUDENT SEARCHES, INTERVIEWS, INTERROGATIONS AND ARRESTS

Code **JIH** Issued **1/14/22**

~~Purpose: To establish the basic structure for conducting searches of students or their property; interviews and interrogation of students and arrests of students on school property.~~

~~Searches~~

~~Students do not lose their constitutional rights upon entering school premises. The Fourth Amendment to the United States Constitution protects all citizens, including students, from unreasonable searches.~~

~~However, unique considerations for maintaining discipline and order and the need to provide for schoolhouse safety have resulted in a different legal standard for student searches and searches of those on school premises.~~

~~Students and their belongings are subject to reasonable searches and seizures when administrators have a belief or suspicion considered to be reasonable under these circumstances.~~

- ~~• A student committed a crime or a violation of a school rule.~~
- ~~• Such a search may reveal contraband or evidence of a violation of a school rule or a criminal law.~~

~~Any search conducted must be reasonable in scope given the age and sex of the student and the nature of the alleged infraction.~~

~~Only the principal or his/her designee may conduct such searches within the constitutional parameters outlined above unless exigent circumstances exist which require another staff member to take immediate action for safety reasons.~~

~~School personnel may, in the course of an investigation and upon reasonable suspicion, ask a student voluntarily to empty the contents of his/her pockets, purse or similar bags or places of potential concealment. In the course of an investigation and upon reasonable suspicion, students may be asked to allow school personnel to search a purse, bag or other items of potential concealment not a part of immediate wearing apparel. However, no school personnel will conduct a search that may be considered a strip search. If a personal search is deemed necessary, or if the search of a pocket, purse or similar bag or place of potential concealment is deemed necessary and not voluntarily consented to by the student, the parent/legal guardian will be requested to perform the search or the matter may be turned over to the appropriate law enforcement agency.~~

~~Random searches~~

~~In order to help provide for the safety of the school population and to prevent weapons, illegal substances and other contraband items from being brought upon school premises, notice is given that occasional school-wide or random, large scale searches of student areas may be conducted. Such searches may include the use of sniffer dogs around lockers or other school spaces utilized by students including automobiles parked on school premises, or on public right of ways immediately adjacent to school premises and ordinarily utilized for student parking when the~~

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~~school is in session. State law authorizes personal belongings such as purses, bookbags, wallets and satchels reasonably to be searched. The administration may use electronic detection devices as an aid for finding possible weapons on school premises and/or preventing the same from being brought on school premises. Any searches conducted pursuant to these provisions will be implemented in a non-discriminatory manner.~~

School lockers and desks

~~All lockers and desks are the property of the school district. The principal or his/her designee may search a student's locker or desk when such employee has reasonable suspicion that the locker is improperly used for the storage of any substance or object, the possession of which is illegal, or may pose a hazard to the safety of the school. Unless an emergency exists, the student should be present and personally remove the contents of the locker or desk for inspection. General locker searches may be called for at any time to include all lockers in a selected section of lockers for general housekeeping and safety of the school.~~

Motor vehicles

~~The privilege of bringing a student-operated motor vehicle onto school premises is conditioned on consent by the student driver to allow search of that motor vehicle when there is reasonable suspicion for a search of that motor vehicle. The act of bringing a motor vehicle upon school premises will allow school officials to presume consent by the student, parent/legal guardian or owner of the vehicle for a search of that motor vehicle. Refusal by a student, parent/legal guardian or owner of the vehicle to allow access to a motor vehicle on school premises at the time of a request to search the motor vehicle will be cause for termination without further hearing of the privilege of bringing a motor vehicle onto school premises. The principal or his/her designee may request a law enforcement officer to search a motor vehicle on school premises, subject to provisions of this policy.~~

Interviews and interrogations

By school administrators and teachers

~~Administrators and teachers, as well as school resource officers may question students about any matter pertaining to the operation of a school and/or enforcement of its rules. The staff member or school resource officer will conduct the questioning discreetly and under circumstances that will avoid unnecessary embarrassment to the person being questioned. School resource officers will act consistent with law enforcement guidelines should any routine questioning turn into a criminal investigation. Any student who answers falsely or evasively or who refuses to answer a proper question may be disciplined.~~

By law enforcement personnel

~~Law enforcement officers have the right to come on campus to conduct interviews with students and witnesses and to conduct interrogations of student suspects. School officials will not delay, hinder or obstruct law officers from the performance of their duties. Before any such interview or interrogation, the principal or his/her designee will carefully ascertain the officer's identity, official capacity and the authority under which he/she acts.~~

~~Except in cases of child abuse or neglect and/or routine interviews or inquiries by a regularly assigned school resource officer, the principal or his/her designee will attempt to contact the student's parent/legal guardian and solicit his/her consent when a law enforcement officer requests an interview on school premises with a student or student witness or seeks to conduct an interrogation with a student suspect. Under reasonable circumstances, law enforcement officials~~

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~~will use discretion to proceed without prior notice or consent by a parent or legal guardian (particularly with regard to student witnesses and certain time constraints).~~

~~When law enforcement officers find it necessary to question students during the school day, the principal or his/her designee will cooperate and request to be present, at the law officer's discretion and with the student's approval, so long as his/her presence does not impede the investigation. If prior consent could not be obtained or notification made, the principal or his/her designee (except in cases of child abuse or neglect) will notify the parent or legal guardian of the law enforcement officials' interview or interrogation with his/her child.~~

Arrests or removals by law enforcement

~~If in the course of the interview the law officer finds it necessary to remove a student from school so as to better aid the investigation, the principal or his/her designee will first ascertain the reason for such action. Upon releasing the student, the principal or his/her designee will immediately attempt to inform the student's parent/guardian.~~

~~The board authorizes site administrators to release minor students into the custody of a law enforcement officer upon presentation of a court order or warrant for the student's arrest or to remove a student from school premises if the officer or school administrator has reason to believe that the student has violated the law. The principal or his/her designee will immediately attempt to notify the parent/guardian or responsible relative of the student's release and the place to which the student is reportedly taken, except in cases of suspected child abuse.~~

~~Whenever a student is suspected of being a victim of child abuse and is being removed from the school premises, the superintendent or his/her designee must give the telephone number and address of the student's parent/guardian to the law enforcement officer. The officer then has the responsibility of immediately notifying the parent/guardian.~~

Contacting law enforcement

~~School administrators will contact law enforcement authorities immediately upon notice that a person is engaging in, or has engaged in, certain conduct or activities on school property or at a school sanctioned or sponsored activity that may result in, or does in fact result in, injury or serious threat of injury to the person or to another person or his/her property (see policy KLG).~~

The Board by this policy recognizes that both state law and the Fourth Amendment to the United States Constitution protect citizens, including students, from unreasonable searches and seizures. The Board accordingly directs all District personnel to conduct searches and seizures on District property or during District sponsored events in accordance with applicable federal and state law. The Board's express intention for this policy is to enhance security in the schools, prevent students and other persons on school grounds from violating Board policies, school rules and state and federal laws, and to ensure that legitimate privacy interests and expectations are respected consistent with the need of the District to maintain a safe environment conducive to education.

Searches

As authorized by State law, District and school administrators and officials may conduct reasonable searches on District property of lockers, desks, vehicles and personal belongings such as purses, book bags, wallets and satchels, with or without probable cause, subject to the limitations and requirements of this policy.

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The District administration is directed to ensure compliance with S.C. Code Ann. § 59-63-1150, which requires that administrators must receive training in the "reasonableness standard" under existing law and in District procedures regarding searches. The District administration is further authorized and directed to establish procedures to be followed in conducting searches. The Board further directs the District administration to ensure that notice is posted in compliance with S.C. Code Ann. § 59-63-1160 advising that any person entering the premises of any school in the District will be deemed to have consented to a reasonable search of his/her person and effects.

All searches must comply fully with the "reasonableness standard" set forth in New Jersey v. T.L.O., 469 U.S. 328 (1985). This reasonableness standard recognizes that balancing the privacy interests of students with the substantial need of teachers and administrators to maintain order in the schools does not require that searches be based on probable cause to believe that the subject of the search has violated or is violating the law. Rather, the appropriateness of a search depends on the reasonableness, under all the circumstances, of the search. Determining the reasonableness of any search will involve a two-fold inquiry. First, a District or school administrator or official must determine that the search is justified at its inception, and second, that the scope and conduct of the search is reasonably related to the circumstances justifying the search at its inception. In other words, all searches hereunder must be determined to: (1) have reasonable grounds for suspecting that the search will disclose evidence the student, or other person, has violated or is violating either the law or the rules of the District or school; and (2) be limited in scope and conduct to the extent that the measures utilized to carry out the search are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the person searched and the nature of the suspected infraction of the law or District or school rules.

The Board further prohibits any District employee, including District administrators and officials, from conducting a strip search.

Any contraband items or evidence of a violation of law or District or school rules may be retained by school officials and/or turned over to an appropriate law enforcement agency, as required by law.

Contacting law enforcement

As required by S.C. Code Ann. § 59-24-60, school administrators will contact law enforcement immediately upon notice that a person is engaging, or has engaged, in activities on school property or at a school sanctioned or sponsored activity, which may result, or result in, injury or serious threat of injury to the person, another person or his/her property. Such reportable activities or conduct may include, but are not limited to, the examples of criminal conduct referenced in Level III of the District's Code of Conduct and Board policy JICDA (Code of Conduct).

Searches with metal detectors

The District authorizes the use of metal detectors in order to enhance security in an attempt to prevent students and/or other individuals from bringing weapons or other dangerous objects into the school, on school property, or to school functions. Metal detectors may be used in places such as, but not limited to, entrances to the buildings, classrooms, auditoriums, and gymnasiums,

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or as individuals enter and exit District or South Carolina school buses. They may also be used at activities hosted by the District, such as, but not limited to, football or basketball games. Metal detectors will be used consistent with Board policy JIHC/JIHC-R (Use of Metal Detectors).

Interrogations by school personnel and school resource officers

Administrators and teachers, as well as school resource officers, may question students about any matter pertaining to the operation of a school and/or enforcement of its rules. The questioning will be conducted discreetly and under circumstances which will avoid, to the extent practical under the circumstances, unnecessary embarrassment to the person being questioned. School resource officers will act consistently with law enforcement guidelines should any routine questioning turn into a criminal investigation. Any student who answers falsely or evasively or who refuses to answer an appropriate question may be disciplined.

Interrogations by law enforcement

When law enforcement officers find it necessary to question a student during the school day regarding matters not connected to the school, the principal or his/her designee will cooperate with law enforcement and will request to be present, so long as his/her presence does not impede the investigation. The principal or his/her designee should make a reasonable attempt to contact the student's parent/legal guardian and request his/her presence. Should this attempt fail, the principal or his/her designee will continue to make a reasonable attempt to notify the student's parent/legal guardian that law enforcement questioning took place on school grounds. However, school officials will not act in such a manner which will interfere with an ongoing law enforcement investigation. Additionally, normal visitor's protocol must be followed by law enforcement officials at all times. Interrogations of students by law enforcement officials should generally take place in a private area, whether or not the principal or his/her designee is present.

Custody or arrest

Law enforcement authorities have the right to enter the school to take a student into custody or to make a lawful arrest of a student provided that they act pursuant to lawful procedure. If a student is arrested or taken into custody at school, school officials will make a reasonable effort to notify the parents/legal guardians immediately.

Adopted 6/10/75; Revised 7/26/76, 1/25/83, 8/20/85, 9/27/94, 4/23/02, 1/28/14, 3/22/22

Legal references:

A. U. S. Supreme Court Cases:

1. New Jersey v. T.L.O., --U.S.--, 105 S. Ct. 733 (1985).
2. United States Constitution, Fourth Amendment.

~~B. South Carolina Constitution:~~

- ~~1. Article I, Section 10.~~

~~CB. S.C. Code, 1976, as amended:~~

- ~~1. Section 59-5-65 - State board to set regulations for minimum standards for student conduct, attendance and scholastic achievement; enforcement.~~
- ~~2.1. Section 59-24-60 - Requires administrators to contact law enforcement.~~
- ~~3.2. Section 59-63-1110, et seq. - Search of persons and effects on school property.~~

The School District of Aiken County

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~~4. Section 63-19-810 - Taking a child into custody.~~

~~D. S. C. Acts and Joint Resolutions:~~

~~1. 1994 Act #393, p. 4097 - Allows searches.~~

STUDENT SEARCHES, INTERROGATIONS AND ARRESTS

Code **JIH-R** Issued **3/22**

In order to recognize and protect student rights and expectations to privacy, safety and an educational environment conducive to learning, as well as to enhance security in schools and prevent students from violating board policies, school rules and federal and state laws, district officials, including principals and their designees, are authorized to conduct reasonable searches according to the procedures outlined herein.

If a search yields evidence that a board policy, school rule, or federal or state law has been violated, appropriate disciplinary action will be taken and in cases where the evidence suggests conduct which must be reported to law enforcement under S.C. Code Ann. § 59-24-60, the appropriate law enforcement authorities will be immediately notified.

Searches of a person or a person's belongings or effects

Procedures for searching a person or a person's belongings must be reasonable. A reasonable search is one which is both based on a reasonable suspicion and is reasonably related in scope. For reasonable suspicion to exist, school officials conducting a search must be able to articulate why, based on all the circumstances, they objectively and reasonably suspect the search of the person or personal property is likely to yield evidence of a violation of law, District or school rules. In formulating a reasonable suspicion, a school official may rely on information he/she considers reliable, including reports from students, as well as the official's own observations, knowledge and experience; however, a mere hunch or guess that a search will uncover evidence of a violation of law, district or school rules is insufficient to justify a search.

Additionally, the search must be reasonable in its method and scope. A search must be carried out in such a manner that it targets the object of the search or the suspected evidence of a violation of law, district or school rules. The proper scope of the search is a case by case determination and is generally limited to the places in which it is reasonably suspected that the object of the search may be found. A search may be as extensive as is reasonably required to locate the object(s) of the search and may extend to all areas, containers and personal effects in which the object of the search may be found. In addition, when determining the reasonableness of the scope and manner of a search, the school officials must take into account the age, sex and other special circumstances concerning the object of the search and the person involved, as well as the nature of the suspected infraction. Should the school official determine that a pat-down search is necessary, the school official, who must be the same sex as the person searched, will escort the person to a private area to conduct the pat-down search. A witness must be present during all such searches. If a student refuses to comply, the student's parent/legal guardian and/or the police will be contacted. **Under no circumstances, however, is a strip search by a school official permitted.**

Searches of lockers, desks and other school property

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The district provides lockers, desks and other school property to students for their use. Because the district retains ownership of this property, school officials may conduct searches of such property, including random and unannounced searches, with or without reasonable suspicion, when such search is determined by school officials to be otherwise reasonable in light of the needs of the school. However, objects belonging to students contained in such school property will not be opened or searched except as provided in the section above. Students will be notified expressly in writing in the student handbook that such school property may be searched at any time. In conducting searches of school property, student property will be respected and not damaged.

Searches of vehicles on school property

Students are permitted to park on school premises as a matter of privilege, not of right. Accordingly, all students desiring to park their vehicles on school premises must first obtain a parking permit from the designated school administrator. In order to obtain a parking permit, the student must sign a form acknowledging that he/she understands and agrees to the terms regarding the use of parking lots set forth below. Vehicles which do not have a permit in plain view are subject to being towed at the student's expense.

Because parking on school premises is a privilege, the school retains authority to conduct routine inspections of the exterior of vehicles parked on school property at any time. In conducting an inspection of the exterior of a vehicle, school officials may observe those things inside vehicles which are in plain view.

The interiors of student vehicles, including such things as trunks, glove compartments and personal belongings within a vehicle may be searched whenever a school official has reason to believe a student is violating board policies, school rules or federal or state law, as described in the "reasonableness standard" set forth in the section above. When a school official needs to gain access to the interior of a vehicle parked on school premises, for purposes of conducting a search in compliance with the "reasonableness standard," he/she will first ask the student to provide access. If a student refuses to provide the school official with access to the interior of his/her vehicle, he/she may be subject to disciplinary action, including loss of all parking privileges and the possible towing of the vehicle at the student's expense.

Use of trained dogs

The exposure of student containers, packages, lockers, vehicles, desks, book bags, satchels and other similar personal belongings to a reliable and trained "dog sniff," when not in a student's possession, in most circumstances is neither a search nor a seizure. This is so because a dog sniff of the above items only does not expose non-contraband items into view and discloses only the presence or absence of contraband. Sniffing of an individual by trained dogs, however, may constitute a search and their use on school property may be disruptive and threatening to students and school personnel.

Accordingly, school officials will only utilize trained dogs on District property under the following circumstances.

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Only trained and proven reliable dogs may be utilized on school grounds.

Dogs will be under the control, direction and supervision of a trained dog handler and will be on a leash or subject to appropriate restraint at all times.

Dogs will only be utilized when determined to be reasonable under all the circumstances by the school principal or his/her designee.

Dogs will not sniff an individual unless determined to be reasonable in all respects under the section above; however, actual physical contact between dogs and individuals should be avoided.

In all circumstances, school officials will make reasonable efforts to minimize the exposure of students to dogs. Should a dog alert its handler to the presence of any contraband, school officials may conduct a search in accordance with the procedures set forth above.

Adopted 3/8/22
