

## Surrender & Retention of Property Searches of Students Procedures

### PURPOSE:

- To ensure the school environment is free from drugs, weapons, alcohol and cyber bullying.
- To ensure students' rights are protected if a search or retention of property is considered necessary

### PROCEDURES:

1. New legislation/ these procedures refer to items that are:
  - likely to endanger the safety of others
  - likely to detrimentally affect the learning environment
  - harmful (poses an immediate threat to the physical or emotional safety of any person).
2. A staff member can *require* students to produce, reveal, and surrender items in their possession.
3. A staff member can conduct a search, only if they believe that a student has something that is *harmful* .
4. A staff member may require a student to reveal an item that is stored on an electronic device, and may require the device to be surrendered. In each case staff must have reasonable grounds for their actions.
5. There is a difference between a device and an item - a device can be thought of as something electronic (for example, a mobile phone, a tablet or a computer). An item is everything else.  
 If an *item* is surrendered, staff may retain and/or dispose of it (if appropriate). If a *device* is surrendered, staff may retain it, but cannot dispose of it. Items and devices that are retained must be stored appropriately. After a reasonable period of retention, they must be returned to the student or passed to another person (such as a parent) or agency (such as the Police).
6. If a student refuses to show or surrender an item that is likely to endanger safety or detrimentally affect the learning environment, then the school's usual disciplinary or behaviour management practices may apply. This may include (but is not limited to) a stand-down or suspension.
7. If a student refuses to show or surrender ***an item that is harmful***, then either a search can be conducted, or the school's usual disciplinary or behaviour management practices may apply.
8. Only teachers and the Principal may carry out searches. There should be two authorised staff present at a search.
9. To conduct a search for an item, staff must require the student to remove outer clothing, or surrender a bag or other belongings in which they suspect the item/device is.  
 Staff may not search clothing that the student is still wearing, nor may a student's person/body be searched. Outer clothing includes a coat, jacket, jumper or cardigan, socks – this does not include tights or stockings. The clothing *must not* be searched while the student is wearing it.  
  
 If however you think a serious criminal offence has been or will be committed and drugs or weapons are involved, the Police should be notified. Police may have the power of search in such circumstances.
10. As above, if a student refuses to remove the outer clothing, or surrender a bag or other belongings, then the school's usual disciplinary or behaviour management practices may apply.

11. If the outer clothing is removed, or the bag or other belongings are surrendered, then staff can search them. If any one of the three types of items is found, then staff may retain it.
12. Whether or not an item is found, the clothing, bag, or other belongings must be returned immediately.
13. Staff cannot require a group of students to produce, reveal and surrender items, or to remove outer clothing or surrender a bag or other belongings, as above, unless they have reasonable grounds to believe that each student has a relevant item. This means, in effect, the legislation does not permit blanket searches in any circumstances.
14. If police are contacted, the school will advise the student's parents.
15. A school can search its own property at any time, for any reason and in any way. A school's property includes buildings and grounds – as well as any desk or other receptacle provided to students for storage purposes.  
  
If during the search for a harmful item, an item that is likely to detrimentally affect the learning environment is found, then the staff member may retain it. The first decision by a staff member is whether the item should be retained or disposed of. Staff are required to consult with the Principal before disposing of an item. Note that an electronic device cannot be disposed of.
16. Reasonable care must be taken with retained items. The teacher or authorised staff member may
  - arrange for the item or device to be placed in secure storage. If an item/device is to be retained overnight or longer it must be held in secure storage. "Secure storage" means any container (drawer, safe) or area (office) which is locked and which cannot be accessed without authority.
17. When deciding to return an item or device to a student or to pass it to another person or agency, the following considerations need to be borne in mind
  - the health and safety of people
  - the apparent value of the item or device concerned
  - the person believed to be entitled to the possession of the item or device concerned.If it is appropriate to return the item to the student from whom it was taken, the item or device must be made available to the student as soon as practicable.
18. The Privacy Act 1993 applies to personal information held about students by schools, including information that leads to a decision to conduct a search. Schools should ensure confidentiality of personal information except to the extent that disclosure – for example, between school staff or to parents – is necessary for the purposes of safety.
19. There must be a record of every item or device retained under the legislation for two or more school nights. The record must include the following:
  - the date on which the item or device was taken
  - the name of the student from whom the item or device was taken
  - the name of the teacher or authorised staff member
  - who took the item or device.

Date Written: September 2015