

December 16, 2009

**RESCIND BOARD REPORT 02-0227-PO1
AND ADOPT A NEW SEARCH AND SEIZURE POLICY**

THE CHIEF EXECUTIVE OFFICER RECOMMENDS THE FOLLOWING:

That the Board rescind Board Report 02-0227-PO1 and adopt a new Search and Seizure Policy, effective February 1, 2010.

PURPOSE: Weapons and drugs in schools, on school grounds and in surrounding neighborhoods endanger students and staff and make it difficult for them to focus on education. To ensure that school is a safe haven for students and a safe workplace for staff, this policy authorizes school officials to search students and visitors, the belongings they bring to the school and property owned, leased, or used by the Board for school activities, and to seize any weapon or contraband recovered in such searches. This policy establishes the terms and conditions upon which a search of a student or visitor may be authorized and conducted. Nothing in this policy is intended, nor shall be construed, to create an obligation to search any student or visitor.

I. Definitions. As used in this Policy:

"Belongings Search" means a directive by a Board employee or a sworn law enforcement officer to a student or visitor to relinquish personal items, including backpacks and purses, to be opened and searched and opening and inspecting personal items stored in a desk or locker, such as clothing, backpacks, purses and other containers.

"Contraband" means illegal drugs, unauthorized electronic devices, the fruits of a crime or violation, any instrument used to commit a crime or violation, and any other item, when possessing that item violates any applicable law, City ordinance, rule or policy of the Board or any individual school.

"Contraband Search" means a directive by a Board employee or a sworn law enforcement officer to a student or visitor to remove outerwear, including clothing worn over a shirt, hat, gloves, socks and shoes, so these items can be searched; to turn out pockets, roll down sleeves, roll up pants to the knees, remove any belt, reveal the waist band or the top of the pants or skirt for visual inspection. A Contraband Search may include a Belongings Search.

"IMPACT Number" means the number listed on the "Security Screenings" page on IMPACT, which designates the position in line of each individual who may be subject to a random Metal Detector Screening. For example, if the number is five, every fifth person in line may be searched.

"Mass locker or desk search" means any search of multiple lockers or desks that is not based on individualized suspicion, such as a search of the items that are in plain view inside all lockers in a bank of lockers, all desks in a particular classroom or all desks or lockers on a particular floor or designated area of a school.

"Metal-Detector Activation" occurs when a walk-through or hand-held metal detecting device, set to a level determined by the Office of School Safety and Security (SSS), responds by alarm or other signal during a search.

"Metal-Detector Screening" means the use of walk-through metal detectors and/or hand-held wands and/or x-ray machines to search students, visitors, and their belongings on a daily, as-needed or random basis.

"Reasonable Suspicion" means knowledge that is sufficiently trustworthy to lead a Board employee or School Official (as defined in this Policy) to believe s/he has a moderate chance of finding that a student or visitor possesses evidence of wrongdoing. Reasonable Suspicion may be based upon direct

observation of the student or visitor or on information a School Official receives from a reliable third party. Reasonable Suspicion may arise, for example, from seeing a weapon-shaped bulge in clothing, smelling marijuana, Metal-Detector Activation, viewing a suspicious object via an x-ray monitor, or information from a reliable student or adult that a student currently has a weapon or contraband in his/her possession. Neither a mere hunch nor a generalized suspicion is a sufficient basis for conducting a Weapons Pat Down, Belongings Search, Contraband Search, or individual locker or desk search.

"School Administrator" means a Principal, Assistant Principal or School Disciplinarian.

"School Official" means any School Administrator, School Police or Security Employee, as defined in this Policy, but does not include parents/guardians, volunteers or Local School Council (LSC) parent-or-community members.

"School Police" means a sworn law enforcement officer who is working under the direction of a School Administrator or the Officer of the Board's Office of School Safety & Security (SSS) in connection with a search authorized by this Policy. School Police may include an officer assigned by a law enforcement agency to work in a school, an off-duty officer employed by the Board and an on-duty officer who responds to a school's call for assistance.

"Security Employee" means any Board employee in a security position who is not a sworn law enforcement officer.

"SSS Officer" means the Officer in charge of the Board's SSS Office.

A "Strip Search" occurs when any Board employee or School Official removes or arranges, or directs a student or visitor to remove or arrange, some or all of the student or visitor's clothing in order to permit a visual or manual inspection of his/her genitals, buttocks, anus, female breasts or undergarments. "Strip Search" does not include visually inspecting, conducting a pat down or using a hand-held wand to inspect the portion of these undergarments which is visible to others. Note that Section II of this Policy prohibits Strip Searches.

"Visitor" means any individual who is not a CPS student or Board employee, who wants to enter a school building, school-sponsored activity or event.

"Washroom Search" means any search conducted in a washroom or locker area. Note that Section II of this Policy prohibits Washroom Searches.

"Weapon" means "weapon" as defined in the Student Code of Conduct, as amended.

"Weapons Pat Down" means searching a person for a concealed weapon by using an open hand to touch the outer clothing covering the sides of his/her torso, arms and legs, but not the clothing covering his/her genitals, buttocks, inner thighs or female breasts.

II. General Provisions

A. Authorization. School Officials are authorized to conduct searches of students, visitors, their outer clothing and belongings, and school property, in accordance with the requirements of this Policy. Individualized searches, such as Weapons Pat Downs, Belongings Searches, Contraband Searches and individual locker and desk searches, may be conducted if a Board employee or School Official has Reasonable Suspicion. Reasonable Suspicion is not necessary for random searches, such as random Metal Detector Screenings and mass locker and desk searches.

B. Prohibition Against Strip Searches and Washroom Searches. Board employees, contractors, volunteers and School Officials are prohibited from conducting Strip Searches and Washroom Searches.

C. Preference for Search by Sworn Law Enforcement Officers. If practical, School Officials should ask sworn law enforcement officers, such as Chicago Police Officers (assigned to the school, roving, or off-duty) or Cook County Sheriff's Department Officers employed by the Board as School Security Supervisors, to conduct Weapons Pat Downs. Law enforcement officers are trained in proper search techniques, and know how to search for weapons in a manner that minimizes the possibility of injury.

D. Gender Preference. When practical, School Officials of the same gender as the student/visitor should be assigned to scan students and visitors with hand-held metal-detecting devices, to conduct Weapons Pat Downs and to ask a student/visitor to remove any belt and reveal the waist band or top of the pants or skirt for visual inspection. If no School Official of the same gender as the student or visitor is immediately available, a Board employee of the same gender should witness these searches.

E. School Administrator Oversight. A School Administrator should witness any use of a hand-held metal detector or Weapons Pat Down of a student or visitor unless exigent circumstances require immediate action to protect any student, school staff or visitor from a physical threat.

F. Seized Weapons and Contraband. Weapons or contraband involving drugs discovered during a search shall be turned over to the arresting or responding law enforcement officer. If a School Administrator is not present when a weapon or contraband is discovered, a School Administrator shall be notified immediately that a weapon or contraband involving was seized. If a responding law enforcement officer is not immediately available, the School Administrator shall keep the weapon or contraband in a secure location until the responding officer takes possession of it. If contraband is discovered in a search that is not related to drugs, School Officials shall follow the procedures outlined in the SSS Guidelines.

G. Prosecution and Student Discipline. Board employees shall assist law enforcement officials, including the Chicago Police Department and the Cook County State's Attorney, in the prosecution of any person found in possession of weapons or contraband in school, on school property or at a school sponsored activity or event.

Board employees shall follow the Student Code of Conduct ("SCC") to impose appropriate discipline upon a student found in possession of weapons or contraband and shall comply with all applicable documentation requirements.

H. Exigent Circumstances. Nothing in this Policy is intended to prohibit or deter any Board employee or School Official from taking any action s/he reasonably believes is necessary to protect any student, school staff or visitor from a physical threat.

I. Related Policies. This Policy should be read with reference to other related Board Policies including, but not limited to, the following: Policy on the Use of Momentary Physical Intervention with Students, Policy on Behavioral Interventions, Physical Restraints and Isolated Time-Outs for Students with Disabilities, Policy on the Administration of Medication During School Hours and the Student Code of Conduct.

III. Metal Detector Screening

A. Authorization. The Chief Executive Officer or his/her designee or a principal may authorize random, daily, or as-needed Metal Detector Screenings to deter and prevent weapons from being brought into any school building, activity or event. If the principal decides to authorize daily Metal Detector Screenings, the principal shall notify the school's Local School Council at its next regularly scheduled meeting.

Metal Detector Screenings shall be conducted in accordance with the guidelines issued by SSS. If fewer than all students or visitors are to be screened on a particular day, the principal/designee shall obtain the IMPACT number, shall record in IMPACT whether a random or as-needed search will be conducted, and shall direct the search of only those individuals who occupy the designated number in the line.

B. Signage and Notice. All schools with metal detectors, whether used randomly or daily, shall post a sign outside the entrance to be used for metal-detector screenings to the effect that any person who enters the building may be subject to search.

C. Activation.

1. If the metal detector is activated by a student or visitor, a Security Employee or School Police shall summon a School Administrator to witness a search by a handheld metal detector, if a handheld detector is available.

2. If no handheld detector is available, or if the handheld detector is activated, the student or visitor shall be asked to relinquish any metal item. A School Official shall then conduct a second Metal Detector Screening.

3. If Metal-Detector Activation occurs after the second Metal-Detector Screening, a School Official shall conduct a Weapons Pat Down.

4. Handheld metal detector and Weapons Pat Down searches are subject to the gender preference requirements noted in section II.D. above.

5. If a weapon or contraband is discovered, the School Administrator shall summon School Police or call 9-1-1. A School Official shall keep the student under observation in a private area until a sworn law enforcement officer arrives.

IV. Individualized Searches

A. Authorization. School Police, and Security Employees if no School Police are immediately available, are authorized to conduct four types of individualized searches -- Weapons Pat Downs, Contraband Searches, Belonging Searches and individual desk and locker searches. An individualized search is justified at its inception when a School Official has Reasonable Suspicion that a student or visitor has a weapon or contraband in his/her possession. The method of searching must be (1) reasonably related to the objective of the search, and (2) not excessively intrusive in light of (i) the age and gender of the student or visitor and (ii) the nature of the suspected violation. An individualized search should be no more intrusive than is necessary to turn up evidence of the crime or rule violation the student or visitor is reasonably suspected of committing.

B. Individualized Search For Weapons. Whether or not a Metal Detector Screening or other search has been conducted, if a Board employee reasonably suspects that a student or visitor has a weapon in his/her possession, s/he shall call a School Official to conduct a search.

If no School Official is available, or if the Board employee reasonably believes any person is in immediate danger, the Board employee may conduct a Weapons Pat Down. If another adult is immediately available, the Board employee should ask that adult to witness the Weapons Pat Down.

C. Individualized Search For Contraband. If a Board employee reasonably suspects that a student or visitor has contraband on his/her person or in his/her belongings, s/he shall call a School Official to conduct a Contraband Search.

D. Reasonable Suspicion Persists After Unsuccessful Contraband Search or Belongings Search.

1. Students

a. If no Contraband is found after a Contraband or Belongings Search, but the School Official still reasonably suspects that the student is concealing something dangerous, for example by crotching a controlled substance or a quantity of non-prescription drugs that might imperil any student, s/he shall notify a School Administrator.

b. If the School Administrator reasonably suspects that the student is concealing something dangerous, s/he shall call the student's parent/guardian to ask the parent/guardian either to conduct the search or take the student home. A School Official shall keep the student under observation in a private area until the parent/guardian arrives.

c. If the School Administrator reasonably suspects that the student is concealing contraband that is not a danger to him/herself or another student, such as stolen money, s/he may (i) call the student's parent/guardian to ask the parent/guardian either to conduct the search or to take the student home, or (ii) end the search.

2. Visitors. If no contraband is found, but a School Administrator still reasonably suspects that a visitor is concealing contraband, s/he shall deny entry to the visitor and may call 9-1-1.

V. Desk or Locker Searches

A. Authorization For Mass Desk and Locker Searches. Desks and lockers are the property of the Board and remain at all times under the Board's control. Students are permitted to use desks and lockers during school hours. The Board is not responsible for items students maintain in lockers or desks.

A School Administrator may authorize mass locker and/or desk searches, and may direct such searches, with or without the assistance of Security Employees or School Police. Mass locker and/or desk searches may be conducted by School Officials at any time for any reason, without notice, without student consent, and without Reasonable Suspicion.

B. Scheduling. Mass desk and/or locker searches may be performed at any time, but are best performed when no students are present, such as before school is opened, after school or on weekends.

C. Law Enforcement Assistance. A School Administrator may ask sworn law enforcement officers to use trained dogs to conduct mass desk and locker searches at times when students are not present.

D. Authorization for Search of Individual Desk or Locker. A School Administrator who has Reasonable Suspicion may authorize the search of an individual desk or locker.

E. Personal Items within a Desk or Locker. Personal items, such as a purse, book bag, jacket or container, may not be searched unless a School Official has Reasonable Suspicion that a search of such items will turn up weapons or contraband. Before searching any personal item within a desk or locker for a weapon, a School Official should examine the personal item with a hand-held metal detector, if one is available.

VI. Car Searches

If a Board employee reasonably suspects that a car located on property owned or leased by the Board contains a weapon or contraband, he or she shall immediately call School Police or 9-1-1 to report that suspicion and the license number, description and location of the car and to request a search.


VII. Authorization to Formulate Guidelines.

The SSS Officer is authorized to issue guidelines for the effective implementation of the requirements of this Policy.

VIII. Violations.

Any Board employee who violates this policy or related guidelines may be subject to discipline, up to and including discharge, in accordance with the Board's Employee Discipline and Due Process Policy.

Approved for Consideration:


Barbara Eason-Watkins
Chief Education Officer


Respectfully submitted:


Ron Huberman
Chief Executive Officer

Noted:


Christina Herzog
Acting Chief Financial Officer

Approved as to Legal Form: 


Patrick J. Rocks
General Counsel