**WALWORTH POLICY: 446**

**GUIDELINES FOR STUDENT SEARCHES AND SEIZURES**

Walworth Jt. District #1 recognizes its responsibility to provide students and staff with a safe, alcohol and drug-free environment that is conducive to learning. Therefore, school officials have an affirmative duty to investigate any reasonable suspicion regarding conduct or materials dangerous or harmful to the health and welfare of students, school personnel or school property. When practicable, school officials shall cooperate with law enforcement personnel in any such investigation.

**A. Cooperation with Law Enforcement Agencies**

1. Law Enforcement Search: If law enforcement personnel seek permission from

school authorities to search a student or the student’s property, desk, locker, or vehicle parked on school property, in order to obtain evidence related to criminal activities, the school officials should ensure that the police have a valid search warrant unless: (1) there is informed consent by the individual whose interests are involved; (2) there is probable cause and circumstances are such that taking the time to obtain a warrant would frustrate the purpose of the search; (3) a valid arrest has been made and the search is incident to the arrest; or (4) the search is at the request of school officials and reasonable suspicion for such a search exists. Depending upon the circumstances, school officials may notify the parent(s) or guardian(s) when a request is made to search a vehicle parked on school property. Furthermore, a search on school premises shall have one or more district official(s) present during the search. The above provisions regarding parent(s) or guardian(s) notification and the presence of district officials may not be enforced, as determined by the District Administrator in consultation with law enforcement, in cases of suspected child abuse pursuant to Wisconsin Statute 48.981. Finally, it is recognized that school officials are required to cooperate with law enforcement officials and under no circumstances should school officials attempt to interfere with law enforcement efforts to conduct a search on school property.

2. Use of Canine Units in Search Activities: Canines specially trained to detect the

odor of illegal substances, such as narcotics or other look-alike substances or explosive devices, may be utilized by law enforcement officials in conjunction with school officials. The canines may be used at any time and on any school property, including desks, lockers, and student vehicle parking areas provided the conditions contained below are followed:

a. the presence of the canine unit on school property is authorized in advance by the District Administrator or designee or is pursuant to a court order or warrant,

b. a law enforcement officer specifically trained to work safely and

competently with the canine unit must handle the canine, and

c. the canine unit is represented by the sheriff or chief of the law enforcement agency providing the service as capable of accurately detecting drugs and/or explosive devices. The District shall not use trained canine units to sniff a student’s person, including articles of clothing a student is wearing or a bag while the student is holding it. A positive reaction by a trained canine unit will provide reasonable suspicion for a search of a student’s locker, vehicle or other property in accordance with this policy.

3. Individuals will be subject to prosecution as well as disciplinary action, as deemed necessary, as a result of the search.

**B. Search by School Authorities**

1. Who May Conduct a Search

A school administrator or his/her designee and an additional person(s) may conduct a search. One of these two people must be of the same sex as the student being searched when the search involves the student’s person or personal property. A designee is defined as any school district employee designated by a school official for the purpose of conducting a search.

2. Documentation

For all searches in which the student refuses to cooperate, the individual doing the

search shall maintain a written record of all actions leading up to and including the search. In all other searches, records will be maintained at the discretion of the individual doing the search.

3. Search of Students, Student Property. and Student Vehicles on School Property

In the interests of the welfare of the students, the school community, and in

situations in violation of local, state, and federal law; it may be necessary to search a student, the student’s property or the student’s vehicle, if the vehicle is on school property. The search may be conducted if the school official or his/her designee has a reasonable suspicion that the student has obtained or has in his/her possession, property, or vehicle, items in violations of school regulation, local ordinance, state, or federal law. The search shall be conducted in a reasonable manner and must not be overly intrusive in light of the age and sex of the student and nature of the infraction. Searches of a student’s person or personal belongings should be conducted outside the presence of other students to the extent possible. No school official shall conduct a strip search of a student.

a. Conducting the Search with the Student’s Consent

The school official or his/her designee who is conducting the search

has the right to request a student to empty pockets, purses, backpacks or other articles used to carry personal effects, to remove hats and shoes and/or to roll socks down. The school official or his/her designee can also request a student to remove outer garments, such as sweatshirts, sweaters, jackets, vests if worn over blouses, shirts, T-shirts, etc. At no time will a strip search be conducted by a school official or his/her designee.

b. Procedure if a Student Refuses to Cooperate

If a student refuses to cooperate, the school official or his/her

designee has the authority to proceed, subject to the limitations described below.

(1) An attempt will be made to contact the student’s parent(s) or guardian(s) in order to request him/her to encourage the

student to cooperate. If the parent(s) or guardian(s) cannot be reached or if the student continues to refuse to cooperate, the school official or his/her designee may turn the matter over to law enforcement officials for appropriate action. The student may be detained until the law enforcement official arrives.

(2) If a school official or his/her designee has reason to suspect

that a student is carrying a dangerous weapon or illegal item or substance and if a school official or his/her designee believes that an immediate search is necessary, he or she may search a student’s pockets or belongings and conduct a pat-down search. The student may be detained until such time as a law enforcement official arrives. At no time will a strip search be conducted by a school official or his/her designee.

4. Search of Lockers and Desks

The Board of Education has provided school owned and controlled lockers and

desks for the purpose of providing students with a convenient receptacle for clothing, books, and other articles necessary or convenient for a student’s use during the school day. No student shall use the locker for any other purpose. The locker is assigned to a student but remains the property of the District. At no time does the District relinquish its exclusive control of the lockers. Locker searches may be conducted as determined necessary or appropriate without notice, without student consent, and without a search warrant. Students have no property interest or right to privacy in any locker or desk and the district expressly reserves the right to search lockers and desks. Authorization to search a locker or desk will be given only by a school administrator or his/her designee. The search should be made in the presence of two school employees and, if practicable, a record will be kept by the school of all lockers or desks searched; including the reason for the search and the findings. It is recognized that all lockers or desks are opened and/or inspected for housekeeping and repair purposes periodically. Lockers and desks are subject to search to protect the health and safety of the student body and may be opened and inspected by school authorities at any time. Any item found in the locker or desk that is harmful to the health and welfare of students, school personnel, or school property are subject to seizure and may be removed.

**GUIDELINES:**

a. Items removed from a locker or desk may be held by the school for return to the parent(s) or guardian(s) of a minor student, without liability to the school for safekeeping. Depending upon the circumstances, a parent(s) may be notified of the item(s) removed from a locker or desk and provided an opportunity to retrieve such item(s) at their convenience. The return of items deemed necessary for use as evidence in a school discipline proceeding, or that have been turned over to law enforcement authorities, may be delayed.

b. If the inspecting authority suspects that possession or storage of any unauthorized item found in the locker or desk involves a violation of the law, the suspect material removed from the locker or desk may be turned over to law enforcement officials. Depending upon the circumstances, the parent(s) or guardian(s) of a minor student may be notified by the inspecting authority of the item(s) removed from the locker or desk and of the delivery thereof to law enforcement officials.

Students and their parents and guardians shall be informed of this policy annually through the student handbook.

Walworth Jt. District #1 does not discriminate on admissions to any school, class, program, or activity on the basis of sex, race, religion, national origin, creed, pregnancy, marital status, parental status, sexual orientation, or physical, learning, emotional, or mental disability. All discrimination complaints shall be processed in accordance with established procedures.

**LEGAL REFERENCES: Wisconsin Statutes:**

Section 118.32 [strip search by school employees]

Section 118.325 [locker searches]

Section 948.50 [criminal penalties; strip search by school employees]

Section 968.10 [Searches and seizures, when authorized by law enforcement]

Section 968.25 [Search during temporary questioning by law enforcement]

PI 9.03(1) of the Wisconsin Administrative Code

**FEDERAL LAWS:**

U.S. Constitution, 4th Amendment [protection from unreasonable search and seizure]

**POLICY ADOPTED:**  November 16, 1998

**POLICY REVISED:** May 24, 2007

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