

Conducting Student Misconduct Investigations:

Administrator's Guide to Gathering
Evidence and Conducting Searches



**DURHAM CATHOLIC
DISTRICT SCHOOL BOARD**
Learning and Living in Faith

Preamble

At DCDSB, we strive to provide environments that ensure all students have a safe and caring school where their learning is maximized. From time to time, personal searches, as well as searches of lockers and electronics are necessary for safety reasons. A search must be related to and undertaken in accordance with the statutory duties and responsibilities of an administrator or teacher as defined by the Education Act (Sections 264 and 265) “to maintain proper order and discipline” and a high “duty of care” of students and property. A teacher, principal or vice-principal does not require a search warrant in order to conduct a student search.

When to Conduct a Search

In order to conduct a search, Administrators must:

- have reasonable grounds to believe that there has been a breach of school regulations;
- believe that the search would reveal evidence of that breach;
- ensure that only Administrators or their designates conduct a search or seizure of prohibited objects or substances, unless there is an immediate threat to the safety of a person or persons on the school premises;
- exercise reason and judgment when determining the scope of a search; and
- comply with the Charter of Rights and Freedoms regarding random and arbitrary searches.

What are Reasonable Grounds to Conduct a Search?

The following may constitute reasonable grounds to conduct a search:

- information received from one student considered to be credible;
- information received from more than one student;
- a staff member’s or Administrator’s own observations; and
- any combination of these pieces of information which the Administrator considers to be credible.

Please note: Administrators are not agents of the police and should not act as such. An administrator (or teacher) should never search a student or a student’s belongings at the direction of the police. If the police require that a search be conducted, the police must conduct the search.

Best Practices

All Types of Searches

Conducting personal searches is vital as part of larger efforts centred on welcoming staff, students, parents/guardians/caregivers, and visitors into a safe and healthy community. Nonetheless, it is imperative that all searches be done in a manner that prioritizes safety while honouring dignity of the person. This is particularly essential in interactions with Black and racialized students who have historically experienced disproportionate surveillance and search procedures due to the acknowledged existence of systemically embedded racism in institutional, retail, and social spaces. It is important to consider the impact that the search may have on a student dependent on their lived experiences. For students belonging to marginalized and vulnerable groups, consideration with respect to the optics of public searches and personal inquiries that could lead to feelings of criminalization or racial stigmatization should be prioritized.

In an effort to maintain essential student/educator relationships and to provide a student with the opportunity to express concerns or impact in relation to being subject to a school-based search, a voluntary post-event debriefing process should be initiated. Principals and vice-principals should encourage and support student participation in the debrief by explaining the benefits of the process; however, a student's attendance and participation in the debriefing process must be voluntary. Where appropriate (e.g. not suspended or facing criminal charges) a student should be offered an opportunity to participate in a debrief in a timely manner.

Personal Searches

When conducting a personal search, Administrators should:

- have another staff person present to witness the search;
- conduct the search in a private setting;
- conduct non-invasive searches:
- refrain from touching the student
- ensure search is minimally intrusive and conducted in a sensitive manner;
- give due consideration to the age, race and gender of the student;
- wherever possible, have a student empty their own pockets and volunteer evidence; administrators should empty contents of backpacks, etc.
- keep any illegal evidence found secured and accounted for at all times until police arrive (e.g., in a sealed envelope locked in an Administrator's drawer); and
- involve the police and follow the Police/School Board Protocol as necessary.

Locker Searches

When conducting a locker search, Administrators should:

- inform students and parent/guardians/caregivers at the beginning of the school year in the student agenda section of the school website and in Code of Conduct assemblies that the locker and other storage spaces in the school are the property of the school and can be searched;
- search a locker when the halls are empty;
- have the student present during a search if possible;
- have a witness; and
- secure the locker until police arrive (e.g., replace combination lock) if illegal evidence (weapons, drugs, etc.) is found.

Administrators are required to include detailed notes of any searches they conduct and include all relevant facts in their reports.

Electronic Device Searches

When searching a student's electronic device (e.g., cellphone), Administrators should:

- inform students and parent/guardians/caregivers at the beginning of the school year in the student agenda section of the school website and in Code of Conduct assemblies that electronic devices may be searched if there is reason to believe that information on a device may impact the health, safety and security of the school community.
- have the student present during a search if possible;
- have another staff person present to witness the search;
- conduct the search in a private setting;
- give due consideration to the age, race and gender of the student;
- wherever possible, have student volunteer evidence;
- keep any illegal evidence that is found secured and accounted for until police arrive (e.g., in a sealed envelope locked in an Administrator's drawer); and
- involve the police and follow the Police/School Board Protocol as necessary

A search of an electronic device may be considered when:

- there is a credible witness(es) that there may be information on the electronic device that will impact on the safety and security of the school;
- there are immediate concerns about a health and/or safety issue. Administrators have a responsibility to prevent serious harm to students by acting as a "reasonably prudent parent"; and
- the Administrators must take measures to guard against or react to ongoing threats of violence and bullying.

When searching a student's electronic device, Administrators should keep a record of what was searched, the reason for the search, and the extent to which the device was searched. All searches of student devices should be tailored to only address the original reason(s) for the search. The degree of search must be proportionate to the severity of the threat. That being said, if there is a serious threat or possible criminal offence, then Administrators should involve the police and follow the Police/School Board Protocol. In addition, the Administrator should contact their Family of Schools Superintendent.

Health and Safety Regarding Searches

When conducting the search of a student, a student's belongings or locker, Administrators should consider the following:

- if there is reason to believe that there may be a weapon on the student or in their belongings then wait for a police officer to arrive and conduct the search;
- if available, ask the student, "Is there anything in your coat, wallet, backpack, locker, etc. that could harm the searcher?";
- proceed with caution (i.e., do not rush the search);
- visually scan the area, utilize a light to look into small spaces and do not remove these items unless you can do so safely);
- wear protective gloves (e.g., rubber, latex, etc.);
- after securing items found during search, remove and dispose of protective gloves; and
- avoid coming in contact with the parts of the protective gear that have been in contact with the items.

Human Rights Regarding Searches

Searches must be conducted in a manner free from discrimination and harassment under the Ontario Human Rights Code. Administrators conducting searches must ensure that the decision to conduct a search and the manner in which the search is conducted is equitable, based on the grounds of discrimination contained in the Code. Should an administrator have any concerns regarding the potential discriminatory impact of a search or the way in which a search was conducted, the administrator should contact the Family of Schools Superintendent.

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