

Shelby County Board of Education

SEARCHES AND INTERROGATIONS

6027
Issued Date: 08/26/10
Revised: 06/11/13

I. PURPOSE

The purpose of this policy is to ensure that schools protect student rights but also cooperate with authorities and school personnel in interrogations and searches.

II. SCOPE

This policy applies to interrogations and searches of all students.

III. POLICY STATEMENT

A. Searches

1. When individual circumstances in a school dictate it, a principal may order that vehicles parked on school property by students or visitors, containers, packages, lockers or other enclosures used for storage by students or visitors, and other areas accessible to students or visitors be searched in the Principal's presence or in the presence of other members of the Principal's staff.
2. Individual circumstances requiring a search may include incidents on school property, including school buses, involving, but not limited to, the use of dangerous weapons, drugs or drug paraphernalia by students, which are known to the Principal or other staff members, information received from law enforcement, juvenile or other authorities indicating a pattern of drug dealing or drug use by students of that school, any assault or attempted assault on school property with dangerous weapons, or any other actions or incidents known by the Principal which give rise to reasonable suspicion that dangerous weapons, drugs or drug paraphernalia are held on school property by one (1) or more students.
3. A notice shall be posted in the school that lockers and other storage areas, containers, and packages brought into the school by students or visitors are subject to search for drugs, drug paraphernalia, dangerous

weapons or any property which is not properly in the possession of the student.

4. A notice shall be posted where it is visible from the school parking lot that vehicles parked on school property by students or visitors are subject to search for drugs, drug paraphernalia or dangerous weapons.
5. A student may be subject to physical search because of the results of a locker search, or because of information received from a teacher, staff member, student or other person if such action is reasonable to the Principal.
6. All of the following standards of reasonableness shall be met prior to conducting a physical search on a student:
 - a. A particular student has violated school policy;
 - b. The search will yield evidence of the violation of school policy or will lead to disclosure of a dangerous weapon, drug paraphernalia or drug;
 - c. The search is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of students;
 - d. The search is not conducted for the sole purpose of discovering evidence to be used in a criminal prosecution; and
 - e. The search shall be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student, as well as the nature of the infraction alleged to have been committed.

B. Interrogations

Students may be questioned about any matter pertaining to the operation of a school and/or the enforcement of its rules or for other reasons deemed appropriate in accordance with the administrative rules and regulations accompanying this policy.

IV. RESPONSIBILITY

A. The Superintendent (or designee) is responsible for administering this policy.

Legal References:

1. TCA 49-6-4202 through TCA 49-6-4212

S E A R C H E S AND INTERROGATIONS

A. SEARCHES

Search by School Personnel

Any principal (or designee) having reasonable suspicion may search any student, place or thing on school property or in the actual or constructive possession of any student during any organized school activity off campus, including buses, vehicles of students or visitors (Notice shall be posted in the school parking lot that vehicles parked on school property by students or visitors are subject to search for drugs, drug paraphernalia or dangerous weapons), and containers or packages if he/she receives information which would cause a reasonable belief that the search will lead to the discovery of:

1. Evidence of any violation of the law:
2. Evidence of any violation of school rules or regulations or proper standards of student or faculty conduct;
3. Any object or substance which, because of its presence, presents an immediate danger of harm or illness to any person.

A student using a locker that is the property of the school system does not have the right of privacy in that locker or its contents. All lockers or other storage areas provided for student use on school premises remain the property of the school system and are provided for the use of students subject to inspection, access for maintenance and search. Notice shall be posted in each school that lockers and other storage areas are school property and are subject to search.

A student may be subject to physical search or a student's pocket, purse or other container may be required to be emptied because of the results of a locker search, or because of information received from a teacher, staff member or other student if such action is reasonable to the principal. Additionally, whenever reasonable suspicion exists that a cell phone in a student's possession

and/or control contains material that violates state law/regulation and/or Board policy, the principal or designee may confiscate the phone and immediately contact District security officials. District security officials may, if they have reasonable suspicion to do so, search any cell phone brought onto any SCBE property, which includes but is not limited to parking areas if the search could be expected to yield evidence of the violation of school/District policy or state or federal law.

For searches by school personnel, all of the following standards of reasonableness shall be met:

1. A particular student has violated policy;
2. The search could be expected to yield evidence of the violation of school policy or disclosure of a dangerous weapon or drug;
3. The search is in pursuit of legitimate interests of the school in maintaining order, discipline, safety, supervision and education of students;
4. The primary purpose of the search is not to collect evidence for a criminal prosecution; and
5. The search shall be reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student, as well as the nature of the infraction alleged to have been committed.

Searches by Police or SCS Security

If public health or safety is involved, upon request of the principal who shall be present, police officers or SCS Security may make a general search of students' lockers and desks, or students' or nonstudents' automobiles for drugs, weapons or items of an illegal or prohibited nature.

If the principal has received reliable information which he/she believes to be true that evidence of a crime or of stolen goods, not involving school property of members of the school staff or student body, is located on school property and that any search for such evidence or goods would be unrelated to school discipline or to the health and safety of a student or the student body, he/she

shall request police assistance; and procedures to obtain and execute a search warrant shall thereafter be followed.

Whenever the possibility of uncovering evidence of a criminal nature exists, the principal or his/her designee may request the assistance of a law enforcement officer or SCS Security to:

1. Search any area of the school premises, any student or any motor vehicle on the school premises; or
2. Identify or dispose of anything found in the course of a search conducted in accordance with this policy.

The involvement of law enforcement officials or SCS Security is encouraged when there is reasonable cause to suspect that criminal evidence is about to be uncovered.

Any dangerous weapon or drug as defined in TCA 49-6-4202 shall be turned over to an appropriate law enforcement official after completion of an administrative proceeding at which its presence is reasonably required.

Items seized other than dangerous weapons or drugs shall be returned to the parent or guardian of the student.

Searches Using Animals

When necessary, dogs or other animals trained to detect drugs or dangerous weapons may be used in conducting searches, but the animals shall be used only to pinpoint areas which need to be searched and shall not be used to search the persons of students or visitors.

Searches Using Metal Detectors

Metal detectors may be used in within the Shelby County Schools and at school sponsored events to conduct searches of students/visitors and their personal effects, at random and for cause, in accordance with applicable statutes, case law, and related mandates.

School officials or law enforcement officers may conduct metal detector checks of groups of individuals if the checks are done in a minimally-intrusive,

nondiscriminatory manner (e.g., on all students in a randomly selected class; or every third individual entering an athletic event).

Metal detector checks or checks of groups of individuals may not be used to single out a particular individual or category of individuals.

If a school official or a law enforcement officer has reasonable suspicion to believe that a particular student is in possession of an illegal or unauthorized metal-containing object or weapon, she/he may conduct a metal detector check of the student's person and personal effects.

A student's failure to permit a metal detector check as provided in this policy will be considered grounds for disciplinary action, including suspension.

Care of Metal Detectors

Each metal detector shall be maintained and calibrated in accordance with the manufacturer's directions. Care shall be given to the storage and security of metal detectors. The metal detectors will be operated only by Shelby County Schools' personnel who have completed the approved training by local law enforcement in the operation of the equipment and necessary personal searches.

The person using the detector may be of either gender, regardless of the person subject to the detection process.

Unbiased Use of Detectors on a School-wide Basis

Metal detectors will be used at times to be determined by the school principal and as otherwise prescribed by the District. Plans for conducting the searches must ensure that no bias enter into the selection of individuals to be searched (for example gender, religion, race, etc.). The metal detector(s) will be used at the school entrances upon the subjects arriving at school rather than used inside the school during the middle of the day, except in the case of searches based upon individualized suspicion.

Selective Use of Detectors Based Upon Individualized Suspicion

No person shall use a metal detector on one subject or a group of subjects selected non-randomly, except:

1. On reasonable suspicion that a weapon will be found; OR
2. Due to reasonable fear based on circumstances present or past that a weapon may be present.

In the event of such reasonable selective use of a detector, the principal or designee should request that local law enforcement authorities and/or the department responsible for security services be present during the process. The principal or designee shall, except when otherwise specifically ordered by an officer of competent jurisdiction, be in charge of the detection process.

Walk-through Metal Detector Scanning Procedures

1. To avoid damage, floppy disks, computer disks, and cassette tapes should be removed prior to scanning.
2. The principal/designee or Security personnel will be present anytime the equipment is in use.
3. Subjects will be selected on an unbiased basis and asked to pass through the pathway of the unit.
4. If the walk-through unit indicates that there is metal present on the person passing through the unit, a secondary or further search is required.
5. Secondary searches will be performed with a hand-held metal detector and in the manner prescribed in Hand-held Metal Detector Scanning Procedures.

Hand-held Metal Detector Scanning Procedures

1. To avoid damage, floppy disks, computer disks, and cassette tapes should be removed prior to scanning.
2. Before scanning, subject will be asked to remove all metal objects.
3. If a metal detector activates on a subject, the subject will again be asked to remove the metal object(s) for inspection. A second scan is then conducted.
4. If the subject refuses to produce the metal object(s) and police are not present:

- a. call police and the department responsible for security services,
- b. escort the subject out of the building, and
- c. if the subject is a student, he/she shall be suspended for a minimum of ten (10) days

5. If the device is activated a third time, it shall constitute full probable cause to conduct a “pat down” search.

6. A “pat down” search shall take place in a room or area out of view from the other subjects.

It is highly recommended that such a search be conducted in the presence of, and whenever possible, by local law enforcement authority and/or an employee in the office responsible for security services. School personnel are discouraged from conducting “pat down” searches. In the event a “pat down” search must be conducted by school personnel, it shall be limited to the subject’s outer clothing for the purpose of discovering only items which may have activated the metal detecting device.

7. In the event that school personnel conduct the “pat down” search, the school personnel must be of the same gender as that of the subject. A second school official must be present during the search.

8. If the “pat down” search reveals an object which may have activated the metal detecting device, the subject will be asked to remove the object. If the subject refuses to remove the object, it is strongly recommended that it be removed by a local law enforcement authority or an employee of the office responsible for security services.

9. If the object removed from the subject could have activated the metal detector, the “pat down” search will be ceased and the subject will again pass through the metal detector or be scanned. The “pat down” search will be continued only if the device again yields a positive reading.

10. School personnel may inspect the contents of any backpack, book bag, purse, or parcel for the limited purpose of determining whether a weapon is concealed therein. Written materials may not be examined for written content.

11. Property removed from the subject as a result of the above procedure which may be legitimately brought onto school premises will be returned to the subject. However, property removed from the subject, possession of which is a violation of the Student Code of Conduct, Board policy, or state law shall be confiscated, and surrendered to law enforcement officers or school security officers. The student shall be disciplined accordingly.

12. Students who fail to cooperate with or purposely delay search procedures may be subject to discipline for insubordination. Refusal to produce an object which has activated the alarm will result in an automatic suspension for a minimum of ten (10) days.

Notice

Notification of this policy will be provided to students and parents/guardians at the beginning of each school year. In addition, signs will be placed at the schools. No other prior notice will be necessary.

Volunteers

Only volunteers who are Shelby County Schools personnel will be allowed to participate in hand-held metal detector scanning. These volunteers must complete training as prescribed. Volunteers who are not Shelby County Schools' personnel will not be permitted to participate in hand-held metal detector scanning, nor conduct a "pat down" or personal search. These non Shelby County Schools' personnel shall participate in accordance with the provisions of Board policy.

Administrative Procedures

1. Each middle/junior and high school shall have on file with the department responsible for security services a school plan for using metal detectors in periodic school-wide scanning of students.

Principals are responsible for keeping the plan current and for forwarding plan changes to the department responsible for security services. At the beginning of each school year, an updated plan shall be submitted.

2. Each school plan shall include the following:

- identification of all entrances at which metal detectors will be located and procedures for limiting access to the facility via other means
- procedures which address the inspection of all buses
- procedures for grounds sweep after a scanning exercise
- identification of rooms in which “pat down” or private searches are to be conducted (The rooms should be reasonably close to the scanning area yet out of the view of students and other persons not part of the scanning team.)
- provisions for supervision of students who have already completed the scanning process and those who may have to wait in line (The late arrival of students should also be addressed.)
- procedures for the inspection or searching of subject’s personal containers including backpacks, book bags, purses, carried clothing, lunch boxes/sacks, etc.

3. Each school shall attach to its plan a list of all persons who wish to participate in police provided or approved training.

4. The office responsible for security services will organize and arrange for training for all participants.

All school administrators in middle/junior and high schools shall be included in the training process.

5. The Office of Security Services, in conjunction with schools and police, will assist in developing a schedule for the implementation and continuance of periodic school-wide searches.

6. Administrators may elect to scan all students at their various locations or may pre-select a designated number(s) to identify the person to be scanned. For example: every 5th student, or every 3rd, 4th, and 9th student, etc. However, particular students cannot be individually selected unless there is reasonable suspicion to believe that the specified student is in the possession of a weapon

or there is a reasonable fear based on circumstances present or past that a weapon may be found.

7. All scanning techniques shall be performed in accordance with prescribed training.

8. Each school administrator shall keep on file the following:

- a) A copy of the plan regarding the use of metal detectors.
- b) A list of all persons who have received training in the use of metal detectors and scanning techniques.
- c) A record of all school-wide searches using metal detectors. Such records will include, but not be limited to the date and time, number of scanning points and number of scanners used by the school; the place the search was conducted; a list of all participants conducting the search; the number of students scanned; the selection criteria used for scanning; names ages, and grades of persons found with contraband; the number of suspensions resulting from the search; and the number of arrests resulting from the search.

9. The department responsible for security services shall provide to schools forms for the recording of all data. No later than the morning following the search, the principal shall submit completed forms to the department responsible for security services. The department responsible for security services shall periodically submit a report to the Superintendent indicating selected information regarding searches by metal detectors.

Items Seized from Searches

Anything found in the course of the search conducted in accordance with this regulation which is evidence of a violation of the law or a violation of the Student Code of Conduct may be seized and admitted as evidence in any hearing, trial, suspension or dismissal proceeding. It should be tagged for identification at the time it is seized and kept in a secure place by the principal or the principal's designee until it is presented at the hearing.

B. Interrogations

Interrogations by School Personnel

Students may be questioned by teachers or principals about any matter pertaining to the operation of a school and/or the enforcement of its rules. Questioning must be conducted discreetly and under circumstances which will avoid unnecessary embarrassment to the student being questioned. Any student answering falsely, evasively or refusing to answer a proper question may be subject to disciplinary action, including suspension.

If a student is suspected or accused of misconduct or infraction of the Student Code of Conduct, the principal may interrogate the student without the presence of parent(s)/guardian(s) or legal custodians and without giving the student constitutional warnings.

Interrogations by Police at the Administrator's Request

If the principal has requested assistance by the police department to investigate a crime involving his/her school, the police shall have permission to interrogate a student suspect in school during school hours. The principal shall first attempt to notify the parent(s)/guardian(s) or legal custodians of the student of the intended interrogation unless advised otherwise by the police.

The interrogation may proceed without attendance of the parent(s)/guardian(s) or legal custodian(s). The principal or his/her designee shall be present during the interrogation.

The use of police women or female staff members is desirable in the interrogation of female students.

Police-Initiated Interrogations

If the police deem circumstances of sufficient urgency to interrogate students at school for unrelated crimes committed outside of school hours, the police department shall first contact the principal regarding the planned interrogation and inform him/her of the probable cause to investigate within the school. The principal shall make reasonable effort to notify the parent(s)/guardian(s) or legal custodian(s) of the interrogation unless advised otherwise by the police. The interrogation may proceed without attendance of the parent(s)/guardian(s)

or legal custodian(s). The principal or his/her designee shall be present during the interrogation.

Interrogations by Other External Agencies

Several investigatory or regulatory agencies interact with the schools. These include the judiciary, the Tennessee Department of Human Services, local and state fire marshal's offices and the Memphis and Shelby County Health Department. Personnel from each of these agencies carry official identification and these credentials should be reviewed by the school principal upon entering the school.

Principal-Initiated Interrogation

When a principal contacts agency personnel regarding concerns involving his/her school, the agency personnel may interrogate a student in school during school hours. Every reasonable effort should be made to notify the parent(s)/guardian(s) or legal custodian(s) of the interrogation, but the interrogation may proceed if the parent is unavailable or unwilling to attend. The principal or his/her designee shall be present during the interrogation.

Agency-Initiated Interrogation

Agency personnel have ample opportunity to talk to a student away from the school before or after school hours, and should be encouraged to do so. When, because of urgent circumstances, agency personnel wish to interrogate a student at the school, the agency personnel should first contact the principal regarding the planned interrogation and inform him/her of the need to investigate. Every reasonable effort should be made to notify the parent(s)/guardian(s) or legal custodians of the interrogation, but the interrogation may proceed if the parent(s)/guardian(s) or legal custodian(s) is unavailable or unwilling to attend.

The principal or his/her designee shall be present during the interrogation.

Exceptions

Even though the Board's intent is to notify parents prior to students being interrogated by outside agencies, there are exceptions made necessary due to

confidentiality requirements or when the investigation would be compromised or disrupted if the parent(s)/guardian(s) or legal custodian(s) is notified. Some examples are:

- a) In cases involving severe neglect, physical abuse, sexual abuse, or sexual assault/battery investigations, the agency personnel shall determine if the parent(s)/guardian(s) or legal custodian(s) should be contacted and if the principal or designee should be present.
- b) In cases involving confidential health concerns (as deemed by the Health Department personnel), agency personnel will determine if the parent(s)/guardian(s) or legal custodian(s) should be contacted and if the principal or designee should be present.

In cases involving an arrest warrant or court order, the parent(s)/guardian(s) or legal custodian(s) shall be notified only after the warrant or court order has been executed.