

Policy Outline

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I. Policy Value Statement

The Board of Education of Howard County is committed to providing a safe and supportive learning environment, free from dangerous or illegal items and those items that constitute a violation of Board policy. In order to ensure safety and security practices consistently across the Howard County Public School System (HCPSS), the Board authorizes statutorily designated employees to conduct reasonable searches of a student and of the student's possessions on school property or during any school-sponsored activity in accordance with Maryland law and this policy. The Board expects that every effort is made to conduct searches and seizures of a student's possessions in a manner which will minimize disruption to the normal school routine, minimize embarrassment to students affected, and respect students' rights.

II. Purpose

The purpose of this policy is to provide guidelines related to the school system's authority to safely conduct searches of a student and the student's possessions, and to provide uniform procedures for the administration of such searches.

III. Standards

- A. The authority of Authorized Searchers to search a student or a student's possessions applies to all students when on school property or at school-related activities for the purpose of preserving order and safety in the schools.
- B. Authorized Searchers will conduct the search in accordance with the constitutional, statutory, and other legal rights of the student.
- C. An Authorized Searcher must have reasonable belief in order to search a student.

- D. The search of a student must be reasonable both at its inception and in its scope.
1. The reasonableness of a search depends upon the degree of certainty that a student has violated an HCPSS policy or the law and the extent to which the student's expectation of privacy will be infringed by the search. Factors to be considered in determining the reasonableness of a search include:
 - a. Seriousness of the problem necessitating the search;
 - b. Need to make the search without delay;
 - c. Probative value and reliability of the information used to justify the search;
and
 - d. Type of search to be conducted.
 2. The measures taken by Authorized Searchers must be reasonably related to the objective of the search and not excessively intrusive when taking into account the nature of the infraction.
- E. Prior to conducting a search of a student or a student's possessions, the principal or principal's designee will attempt to contact the student's parent. Parent contact may take place following the search of a student or a student's possession when there is a need for an immediate search that, if delayed, would jeopardize the safety of students and staff. The principal or principal's designee will explain the reason for a search and will inform the parent of any administrative action pending or being applied.
- The purpose of the contact is to inform the parent of the administrative search, and not a request for consent to search.
- F. A search of a student or a student's possessions will be made in the presence of a third party who is an HCPSS employee, parent, or school resource officer (SRO).
- G. Administrators will inform students of the provisions of this policy within the first ten school days of each school year.
- H. Students are protected by the Fourth Amendment against unreasonable search and seizure of students and their possessions by HCPSS employees.

IV. Responsibilities

- A. The Superintendent/designee will facilitate training for all school administrators annually, within the first 60 school days, on the provisions and implementation of this policy, which includes cell phone searches.
- B. School administrators will ensure that employees review this policy annually.
- C. The Superintendent/designee will ensure that students and parents are provided annual notice of the authority of Authorized Searchers to search students.

- D. Authorized Searchers may search a student if the Authorized Searcher has reasonable belief that the student has in the student's possessions an item, the possession or use of which is a criminal offense under the laws of Maryland, or a violation of any other state law or any policy or regulation of the HCPSS.

V. Delegation of Authority

The Superintendent is authorized to develop procedures for the implementation of this policy.

VI. Definitions

Within the context of this policy, the following definitions apply:

- A. Authorized Searcher – An HCPSS employee with the authority to search.
1. Principal or assistant principal (or the person serving in the position of principal or assistant principal in the absence of the principal or assistant principal).
 2. Security Assistant under the direction of the principal or assistant principal.
 3. Teacher on a school-sponsored trip who has been designated in writing as an Authorized Searcher by the principal.
- B. Parent – Any one of the following, recognized as the adult(s) legally responsible for the student:
1. Biological Parent – A natural parent whose parental rights have not been terminated.
 2. Adoptive Parent – A person who has legally adopted the student and whose parental rights have not been terminated.
 3. Custodian – A person or an agency appointed by the court as the legal custodian of the student and granted parental rights and responsibilities.
 4. Guardian – A person who has been placed by the court in charge of the affairs of the student and granted parental rights and responsibilities.
 5. Caregiver – An adult resident of Howard County who exercises care, custody, or control over the student but who is neither the biological parent nor legal guardian, as long as the person satisfies the requirements of the Education Article, §7-101(c) (Informal Kinship Care) or has been issued a U.S. Department of Health and Human Service's Office of Refugee Resettlement (ORR) Verification of Release form entering into a custodial arrangement with the federal government.
 6. Foster Parent – An adult approved to care for a child who has been placed in the home by a state agency or a licensed child placement agency as provided by the Family Law Article, §5-507.

- C. Personal Technology Device – Any non-HCPSS device that may be used to send or receive data via voice, video or text. This includes, but is not limited to, cell phones, e-readers, tablets, personal computers, wearable technology, video recorders or other devices equipped with microphones, speakers and/or cameras.
- D. Probative Value – Evidence that serves the purpose of proving or disproving a particular fact in the case.
- E. Reasonable Belief – The standard used for authorized school personnel to conduct a search of a student. Searches must be based on a belief that the student possesses an item, the possession of which is a criminal offense under the laws of Maryland or a violation of any other law or HCPSS policy or the HCPSS Student Code of Conduct.
- F. School Property – Any property owned or leased by the HCPSS or used by the HCPSS for school-related activities. The concept of property extends to school activities such as travel, use of parks and recreation facilities, proms at hotels, etc. Bus stops and facilities scheduled by the school system for student use are considered an extension of school property. Examples of school property include, but are not limited to, desks, cubbies, HCPSS technology devices, lockers, and the school parking lot.
- G. School-Related Activity – Any HCPSS activity, whether held on or off school property, in which a student directly participates (e.g., travel, athletic event, or class/graduation activity), or in which the student does not directly participate but represents the school or student body simply by attending (e.g., spectator at a school event).
- H. Student Possession – Any item in the possession or under the control of a student, including, but not limited to, athletic bags, backpacks, personal technology devices, lunch boxes, purses, wallets, or vehicles on school property or a school-sponsored activity.

VII. References

- A. Legal
 - U.S. Constitution, Fourth Amendment, Search and Seizure
 - Md. Ann. Code, Education Article, Section 7-308 (Searches of Students and Schools)
 - COMAR 13A.08.01.14, Searches
- B. Board Policies
 - Policy 1040 Safe and Supportive Schools
 - Policy 1050 Alcohol, Drug, and Tobacco Free Environment
 - Policy 7030 Employee Conduct and Discipline
 - Policy 8080 Responsible Use of Technology, Digital Tools, and Social Media
 - Policy 8100 Field Trips
 - Policy 9020 Students' Rights and Responsibilities
 - Policy 9200 Student Discipline
 - Policy 9250 Weapons

- C. Relevant Data Sources
Maryland State Department of Education (MSDE) Discipline Summary Reports
- D. Other
HCPSS Student Code of Conduct
School Resource Officer (SRO) Memorandum of Understanding

VIII. History¹

ADOPTED: May 11, 2006
REVIEWED: December 19, 2019
MODIFIED:
REVISED: June 12, 2014
 May 12, 2022
EFFECTIVE: July 1, 2022

¹ Key: *Adopted*-Original date the Board took action to approve a policy; *Reviewed*-The date the status of a policy was assessed by the Superintendent's Standing Policy Group; *Modified*-The date the Board took action to alter a policy that based on the recommendation of the Superintendent/designee did not require a comprehensive examination; *Revised*-The date the Board took action on a policy that based on the recommendation of the Superintendent/designee needed a comprehensive examination; *Effective*-The date a policy is implemented throughout the HCPSS, typically July 1 following Board action.

STUDENT SEARCH AND SEIZUREEffective: July 1, 2022

I. Announcements, Dissemination, Training and Review

- A. Notification regarding the provisions of Policy 9260 and these procedures will be provided at least annually to all students, families, and employees. Principals are responsible for notifying all students, families, and employees in their schools. Notification may be through these channels:
1. Announced in schools over the public address system at the beginning of the school year and at other times deemed appropriate.
 2. Published in school and system newsletters and/or handbooks.
 3. Posted on school and system websites.
 4. Reviewed with students by classroom teachers or other appropriate employees.
 5. Provided to new students and parents through the registration process.
- B. All Howard County Public School System (HCPSS) employees will be made aware of the provisions of this policy. This will include but not be limited to:
1. Review of applicable laws and policies with regard to searches and seizure.
 2. Duties and responsibilities as school system employees when navigating situations that involve search and seizure.
 3. Identification and training of Authorized Searchers.

II. Authority to Search

- A. Designation of Authorized Searcher
1. Authorized Searchers will receive annual training on Policy 9260 by the Superintendent/designee. Participation of training by Authorized Searchers will be documented and maintained centrally. Authorized Searchers includes the following:

- a. Principal or assistant principal (or the person serving in the position of principal or assistant principal in the absence of the principal or assistant principal).
- b. Security assistant under the direction of the principal or assistant principal.
- c. Teacher on a school-sponsored trip who has been so designated in writing by the principal and who has been trained in conducting searches.

In the event that the person in charge of students is not an Authorized Searcher and has reasonable belief that a student has an item, the possession or use of which is a criminal offense or a violation of any law, HCPSS policy, or the HCPSS Student Code of Conduct, the person in charge will do one of the following:

- i. Contact law enforcement.
- ii. Immediately call an Authorized Searcher.

2. Authorized Searchers do not include the following:

- a. Contracted security guard.
- b. Parent or volunteer.
- c. HCPSS employee supervising after-school activities.
- d. Howard County Police Department School Resource Officer, or law enforcement officer.
- e. Teachers, unless they have been trained and designated as an Authorized Searcher on a field trip.

B. An Authorized Searcher may make a search of a student or the student's possessions if the Authorized Searcher has reasonable belief the student possesses an item, the possession or use of which is a criminal offense or a violation of any law, HCPSS policy, or the HCPSS Student Code of Conduct. There are two components to a constitutional search: inception of the search and scope of the search.

1. Inception of the Search

- a. The search must be justified at its inception, by reasonable belief that the student's possession or improper use of an item or personal technology device constitutes at least one of the following:

- i. A suspected criminal offense.
 - ii. A suspected violation of any state law.
 - iii. A suspected violation of any HCPSS policy or the HCPSS Student Code of Conduct.
 - b. Reasonable belief is determined by considering the nature of the suspicion, the amount and credibility of evidence, and all relevant circumstances. It is also necessary to consider both the amount and credibility of the evidence that the student possesses, the suspected item, as well as the degree of seriousness that possession of the item or technology device presents. As an example, less verifiable evidence is needed to justify the search of a student if the information concerns the possession of a weapon.
2. Scope of the Search
 - a. The scope of the search of the student (what parts of the student's body and possessions are searched and how) must be reasonable, taking into consideration the nature of the offense, and the size of the suspected item. See Section V., Search of a Student.
 - b. Any other item obtained during a justified search may be the subject of disciplinary action, even if it is not the item which was originally suspected.
 - c. Authorized Searchers will contact the police to conduct investigations related to suspected child pornography discovered during a search.
- C. A search of a student and/or the student's possessions will be made in the presence of a third party, who is an HCPSS employee, parent or SRO.
- D. The right of an Authorized Searcher to search a school building will be announced and published to students and families.
- E. If an Authorized Searcher is making a search of the school building, any item obtained during a search may result in disciplinary action.
- F. Random searches of students is a violation of this policy.

III. Parental Notification of a Search

Prior to conducting a search of a student or a student's possessions, the principal or principal's designee will attempt to contact the student's parent. Parent contact may take place following the search of a student or a student's possession when there is a need for an immediate search that would be jeopardized by a delay. The principal or principal's designee will explain the reason for a search and will inform the parent of any administrative action pending or being applied.

The purpose of the contact is to inform the parent of the administrative search, and not a request for consent to search.

IV. Searches Requested by Law Enforcement

Credible information provided by a law enforcement officer may form the basis for an Authorized Searcher to acquire reasonable belief to conduct a search. However, an Authorized Searcher may not conduct a search of a student based solely on the request of a law enforcement officer.

V. Items That May Be the Object of a Search

The purpose of a search must be for an item, the possession or use of which is suspected to be a criminal offense or a violation of any law, HCPSS policy or the HCPSS Student Code of Conduct. Such items include but are not limited to weapons, including look-alike and non-deadly weapons, controlled dangerous substances, medications or over-the-counter medications, drug paraphernalia, alcoholic beverages, explosive devices, fireworks, stolen items, tobacco products and personal technology devices that are used in violation of HCPSS policy or the HCPSS Student Code of Conduct.

For personal technology devices, Authorized Searchers may search such devices only if they have reasonable belief that the device contains content specific to the suspected criminal offense or a violation of any law, HCPSS policy, or the HCPSS Student Code of Conduct and parents have granted permission to search. The search must reasonably relate in its scope to the circumstances that initially prompted the search.

Should a student refuse to allow an Authorized Searcher to search the personal technology device after receiving parent permission, it is in violation of the HCPSS Student Code of Conduct and may result in disciplinary action. The personal technology device will be confiscated while awaiting contact with the parent and held in the event that the student refuses the search.

A search of a student and/or the student's possessions will be made in the presence of a third party, who is an HCPSS employee, parent or SRO.

VI. Search of a Student

- A. Prior to conducting a search of a student or a student's possessions, the principal or principal's designee will attempt to contact the student's parent prior to the start of the search by the Authorized Searcher.
- B. The Authorized Searcher will begin a search by informing the student that he/she has a reasonable belief that the student is in possession of (the Authorized Searcher will then state the object of the search to the student) and explain the anticipated scope of the search.

- C. A search of a student and/or a student's possessions will be made in the presence of a third party, who is an HCPSS employee, parent, or SRO.
- D. Whenever reasonably possible, a student self-search should be the default search option. A student may be required to empty the student's pockets, purse, wallet, backpack, etc. The Authorized Searcher is permitted to conduct a search subsequent to any student self-search.
- E. Students will be asked to identify which available Authorized Searcher they would prefer when a pat down needs to be conducted unless there is a need for an immediate search that would be jeopardized by a delay. The pat down of a student must avoid breasts, buttocks, and the pelvic/groin area.
- F. Strip searches by Authorized Searchers are prohibited.

VII. Search of a Student Vehicle

A student's vehicle and its contents on school property may be searched by an Authorized Searcher when an impermissible item is in plain view, the Authorized Searcher has reasonable belief that an impermissible item is in the vehicle, or when the student consents. The Authorized Searcher may also contact law enforcement, as needed, based on the suspected item or the student's conduct.

VIII. Search of School Property Assigned to a Student for School Use

An Authorized Searcher may search property assigned to a student for school use at any time. This includes, but is not limited to, lockers, desks, technology devices, instruments, athletic equipment, and cubbies.

Student possessions within the locker or storage cubicles (eg., backpacks, coats, instruments, athletic equipment) may only be searched subject to reasonable belief of a violation. An additional HCPSS employee, parent, or SRO must be present at the time of any search of a student and/or the student's possessions. The right of an Authorized Searcher to search lockers of students will be announced and published to students and families.

IX. Items That May Be the Object of Seizure

The purpose of seizing student property must be for an item, the possession or use of which is suspected to be a violation of any law, HCPSS policy or the HCPSS Student Code of Conduct. Such items include but are not limited to weapons, including look-alike and non-deadly weapons, controlled dangerous substances, medications or over-the-counter medications, drug paraphernalia, alcoholic beverages, explosive devices, fireworks, stolen items, tobacco products and personal technology devices that are used in violation of HCPSS policy or the HCPSS Student Code of Conduct.

All items that are the object of a search and unlawful items found during the search will be seized and secured by an administrator. Items may be retained by the Authorized Searcher, turned over to law enforcement, or where appropriate, returned to the parents of the student.

Authorized Searchers have the authority to seize personal technology devices and maintain the device until the parent is able to retrieve the device. The personal technology device may not be searched by the Authorized Searcher unless granted parent permission to search.

X. Refusal to Allow Search and Seizure

A student's refusal to cooperate with an Authorized Searcher at any time during a search of the student or of their possessions deemed to be detrimental to the security, discipline, or sound administration of the school is in violation of the HCPSS Student Code of Conduct and may result in disciplinary action.

XI. Searches on Field Trips

- A. Training will be provided for Authorized Searchers on the appropriate process of conducting a search under the provisions of this policy.
- B. A teacher on a field trip designated in writing as an Authorized Searcher by the principal/designee may conduct a search of a student under the provisions of this policy as long as the requirements of Section XI.A. of these implementation procedures have been met.
- C. HCPSS employees designated as Authorized Searchers will implement the provisions of this policy on travel if the Authorized Searcher has reasonable belief that the student has in the student's possessions an item, the possession or use of which is a criminal offense under the laws of Maryland, or a violation of any other state law or any policy or regulation of the HCPSS.
- D. Authorized Searchers will attempt to contact the principal or principal's designee prior to conducting any search.
- E. Inappropriate or illegal items found during the search should be seized by the Authorized Searcher and forwarded to the appropriate party in accordance with seizure procedures (Section IX. above).
- F. If the student refuses to consent to a search, the Authorized Searcher should follow the procedures in Section X. above and contact parents and inform the administration of the violation of the HCPSS Student Code of Conduct.
- G. The Authorized Searcher should:
 - 1. Contact the local law enforcement department if the items in question

pose an immediate threat to the safety of others.

2. When practical, attempt to contact the principal/designee prior to contacting the police.
 3. Record the date and time local law enforcement were contacted.
- H. The arrest and prosecution of the student in the applicable jurisdiction could occur as a result of the Authorized Searcher contacting local law enforcement.

XIII. Documentation of a Search

All data collected regarding searches will be centrally maintained in the HCPSS data management system and reported annually to the Superintendent and the Board of Education to assess effectiveness and compliance. When a student search is undertaken, the Authorized Searcher must record and/or collect the following information:

- A. The date, time, and location of the search.
- B. Names of those conducting the search.
- C. Names of those present during the search.
- D. The reason for the search.
- E. Whether the student consented to or refused in the search.
- F. Whether the student cooperated in the search.
- G. Student and staff statements, as appropriate.
- H. All objects seized during the search and their disposition.
- I. Whether objects seized in the search created reasonable belief for the additional search of a person or item.
- J. Any student disciplinary action as a result of the search.
- K. The date and time of any contact with the parent.

XIV. Monitoring

Policy 9260 implementation procedures will be overseen by the Division of School Management and Instructional Leadership and the Division of Operations.

XV. Definitions

Within the context of these implementation procedures, the following definitions apply:

- A. Intimate Areas – Those areas of the body which are normally covered by undergarments.
- B. Child Pornography – Visual depictions, including but not limited to, photographs, videos, digital or computer generated images indistinguishable from an actual minor, and images created, adapted, or modified, but appear to depict an identifiable, actual minor. Undeveloped film, undeveloped videotape, and electronically stored data that can be converted into a visual image of child pornography are also deemed illegal visual depictions under federal law.
- C. Consent – Agreement or permission expressed through affirmative, voluntary words or actions.
- D. Security Assistant – An HCPSS employee who is responsible for monitoring the safety of students, employees, and visitors who use the facilities owned or leased by the school system.
- E. Self Search – A student’s own examination of the student under the direction of an Authorized Searcher.
- F. Strip Search – A search conducted in a manner which exposes a student’s undergarments or intimate areas.

XVI. History¹

ADOPTED: May 11, 2006

REVIEWED: December 19, 2019

MODIFIED:

REVISED: June 12, 2014

May 12, 2022

EFFECTIVE: July 1, 2022

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