

## **WINCHESTER SCHOOL SEARCHING STUDENTS AND CONFISCATION POLICY**

### **Rationale:**

Every school is required to provide a safe physical and emotional environment for students. Safety at school is a basic expectation for students and staff, as well as being a prerequisite for student success and academic achievement.

### **Guidelines:**

- A teacher must have good grounds for considering a search of a student's bag, desk or person. (see note 1)
- Any search must be carried out in a reasonable manner. (see note 2)
- If it is deemed necessary to search a student's "person", the Principal or Deputy Principal should be informed before any further action is taken. (see note 3)
- Students will be asked to hand over the item from either their bag, desk or on the person.
- If they deny having any such item the teacher may look in the student's bag or desk, while maintaining the student's right to privacy:
  - force may not be used in any of these situations.
  - any search should be done without other student's presence.
- If a student refuses to follow the instructions the teacher may decide to involve parents or the Police. Disciplinary action may be necessary in relation to this refusal. A search need not be completed before disciplinary action is taken.
- Except in exceptional circumstances teachers should inform parents or caregivers after a search has been conducted (if they have not already contacted them).
- If a teacher is unable to conduct a search safely, or if they consider it inappropriate due to the likely presence of highly dangerous or illegal items they should stop the search, ensure the student and the belongings in question are under supervision in a safe place and contact the Police.
- Any items found during a search may be confiscated if the item is inappropriate to be at school, may cause harm to a student or another student, or is actually school property.
  - any illegal or dangerous items may be handed onto the Police and needs to be stored in either the Principal's office or the lockable cupboard in the school office until it is removed from the school.
    - a record of the confiscation must be maintained and kept (see note 4)
- Further disciplinary action may be required. Refer to Legislation section of School Policy Folder (NAG 6)

Signed: \_\_\_\_\_  
(Chairperson)

Date: \_\_\_\_\_

**Note - this policy must be added to the school website**

## **GUIDELINES AND NOTES:**

- All teaching staff are authorised to carry out confiscations or searches;
  - primarily this would involve either the Principal, Deputy Principal or Assistant Principal, but gender of the teacher and student must be considered and deemed appropriate for each situation.

### **Note 1: Good grounds**

Staff need good grounds to believe a student has an item that poses an immediate or direct threat to safety.

No search should be carried out based simply on suspicion or on a random or “drag net” basis. Reasonable cause to consider a search should be based on specific information regarding the student in question. This may be circumstantial in some cases and may be based on information provided by others. However school staff must have a clear basis for their decision to search a student or that student’s property. Staff should be able to explain that decision to others.

Evidence may point to a small group of students which may give cause to consider searching particular students or their property. However, searches of large groups of students or their property will not normally be a reasonable step to take unless there is an extremely serious risk to safety. In such cases the Police should be called.

### **Note 2: Reasonable method**

The appropriateness of a search by staff in response to information received must be considered in the context of all the circumstances presented, including the nature of the likely risk to safety.

Each student’s right to privacy and right to not be subjected to an unreasonable search must be carefully considered and protected. All searches should be carried out sensitively and with regard to the student’s privacy, mana and dignity.

A search beyond the outermost layers of clothing a student may be wearing cannot be a reasonable search in a school context.

Staff should consider:

- The appropriate location or setting of any search.
- Inviting a student’s parent/caregiver to come to the school.
- The gender of staff member who is undertaking the search. For example, a female teacher could search female students.
- The presence of a second adult for the search.
- Providing a support person for the student.
- Slowing down any process to give a student time to consider their behaviour and choices.

### **Note 3: Searching a student’s person**

Staff should only consider searching a student’s person when there are strong grounds for doing so.

A search beyond the outermost layers of clothing a student may be wearing cannot be a reasonable search in the school context.

In some cases students questioned by staff will admit to possessing an item and will hand it over when asked. If however staff believe a student is concealing on their person an item which poses a risk to safety and the student denies possessing the item, then the staff member may consider a search.

Start the search by instructing the student to empty their pocket or remove outer layers of clothing as appropriate.

Never instruct a student to remove anything but the outermost layers of clothing they may be wearing (i.e. staff should not be able to see a student's underwear). A search cannot involve any use of force except in an emergency (See Emergency Action and the Use of Force sections).

After considering points 1 to 3 above, use these protocols when searching a student's person:

- Conduct it away from other students unless this is simply not possible in the circumstances.
- Have more than one adult present unless this is simply not possible in the circumstances.
- Consider the gender of the staff member who is undertaking the search. For example, where possible the gender of the teacher doing the search should be the same as the student.
- Consider calling parents/caregivers or arranging a support person for the student. This can be done at any stage.
- Explain to the student what you are looking for, why you believe there is risk to safety and why you think that the item is likely to be found (the student may at this time choose to produce the item of concern).
- Instruct the student to open or empty their pocket or remove an outer item of clothing.

**Comment:** Unless it is an emergency there is always time to weigh up the situation and to seek advice from other staff or professional advisers.

- Never use force of any kind except in an emergency (see "Emergency Action" below).
- If you do not believe a search can be conducted safely, stop any search that has been started, keep the student under supervision (if practicable) and contact the Police immediately.
- Contact the Police if you consider this appropriate due to the likely presence of highly dangerous or illegal items.
- Remember you can slow down the process to give a student time to consider their behaviour and choices.

### **Emergency action**

School staff may deal with situations involving varying degrees of potential danger on a day to day basis (e.g. students being careless with scissors). Most situations can be dealt with by following normal student behaviour management practices such as giving a student instructions and confiscating of dangerous items (See Confiscation above). In other instances, situations may be resolved quickly and safely (e.g. staff may feel comfortable leading a student away from a possible fight).

There may be situations where staff are faced with an incident that cannot be easily resolved and where they have to defend themselves or others from an aggressor or they believe that serious injury is likely to occur if immediate action is not taken.

Staff should always consider their own safety and others' safety in situations that cannot be easily resolved.

## **The use of force**

Before using force you should note:

- You should never use force against students except in the defence of yourself, or in the defence of others. (as per Restraint procedures)
- Force should not be used against a student solely in order to conduct the search (see comment below).
- You are not obliged to put your own safety at risk.
- Any use of force must be reasonable under the circumstances. Any person using excessive force could face prosecution for assault.

Section 48 of the Crimes Act 1961 states that everyone is justified in using, in the defence of themselves or another, such force as, in the circumstances as they believe them to be, it is reasonable to use.

Section 41 of the Crimes Act 1961 permits “using such force as may be reasonably necessary” to prevent the commission of suicide, or prevent the immediate and serious injury to any person. It is therefore possible to prevent students leaving the school if they appear to be at imminent risk from self harm.

## **Responding to an incident – advice for staff**

While every emergency situation is different consider the following to manage risk to yourself and to others:

- Avoid any physical contact with any aggressor. If you do have contact with an aggressor, try and move out of the way if this is possible.
- Call for help from other staff as soon as you can.
- Call 111 at the earliest opportunity, if it is safe to do so. Or ask others to call 111 if possible.
- You should decide quickly to either secure yourself and any students in a safe place, or to move away from the risk.
- If a dangerous item is the cause for concern, isolate the item and if possible move away from it.
- Tell the aggressor to leave in a firm manner if you cannot avoid an aggressor. Being assertive is an important self defence technique.
- Be prepared to physically defend yourself if you are assaulted. You are allowed to use force against an aggressor when defending yourself (i.e. no more than is required to defend yourself).
- Consider the potential risks of using force, the consequences of not intervening and the chances of achieving the desired result by other means.

## **Note 4: Recording confiscation on the register**

A search or confiscation must have a record kept stating:

- which authorised staff member carried out the search or confiscation
- the date and time
- the name of the student
- details of any item found or confiscated

The records of searches and confiscations must be kept at the school for 7 years