



PROPERTY RETENTION AND SEARCHES

National Administration Guideline 5- Health & Safety

Background to Policy

This policy is designed to assist in any situation when it is found necessary to either search a student's private property or their clothing for items of concern when that student is deemed to be in the care of RidgeView School .

Policy Statement

The Board of Trustees of RidgeView School give permission for searches of a students private property and/or their clothing under section 139AAA -139AAI of the Education Act 1989 in situations that it is deemed necessary providing that the guidelines below are followed .

Policy Implementation

The new legislation deals with three key types of items, covering things that are:

- likely to endanger the safety of others
- likely to detrimentally affect the learning environment
- harmful (poses an immediate threat to the physical or emotional safety of any person).

While all three allow a staff member to require students to produce, reveal, and surrender items in their possession, only a belief that a student has something that is harmful allows a staff member to conduct a search. It is for this reason that a robust investigation process is important since the more evidence you have the greater the justification for any search.

A staff member may require a student to reveal an item that is stored on an electronic device, and may require the device to be surrendered.

In each case staff must have **reasonable grounds** for their actions.

There is a difference between a device and an item. For the purposes of these guidelines, a device can be thought of as something electronic (for example, a mobile phone, a tablet or a computer). An item is everything else.

If an item is surrendered, staff may retain and/or dispose of it (if appropriate). If a device is surrendered, staff may retain it, but cannot dispose of it. Items and devices that are retained must be stored appropriately. After a reasonable period of retention, they must be returned to the student or passed to another person (such as a parent) or agency (such as the Police).

If a student refuses to show or surrender an item that is likely to endanger safety or detrimentally affect the learning environment, then the school's usual disciplinary or behaviour management practices may apply. This may include (but is not limited to) a stand-down or suspension.

If a student refuses to show or surrender an item that is harmful, then either a search can be conducted, or the school's usual disciplinary or behaviour management practices may apply.

To conduct a search for an item, staff must require the student to remove outer clothing, or surrender a bag or other belongings in which they suspect the item/device is.

Staff may not search clothing that the student is still wearing, nor may a student's person/body be searched. If however you think a serious criminal offence has been or will be committed and drugs or weapons are involved, the Police should be notified. Police may have the power of search in such circumstances.



As above, if a student refuses to remove the outer clothing, or surrender a bag or other belongings, then the school's usual disciplinary or behaviour management practices may apply.

If the outer clothing is removed, or the bag or other belongings are surrendered, then staff can search them. If any one of the three types of items is found, then staff may retain it whether or not an item is found, the clothing, bag, or other belongings must be returned immediately.

Schools are always free to apply their usual disciplinary or behaviour management practices at any time.

There is a clear distinction between school property and a student's property. A school can search any part of its own property (including its own digital property):

- at any time
- for any reason
- by any means (as long as it acts professionally and respects privacy).

Staff cannot require a group of students to produce, reveal and surrender items, or to remove outer clothing or surrender a bag or other belongings, as above, unless they have reasonable grounds to believe that each student has a relevant item. This means, in effect, the legislation does not permit blanket searches in any circumstances.

There are many factors that can elevate a reasonable suspicion (that a student has an item) to a reasonable belief. These are things such as proximity to the item, exhibited manner/behaviour, answers to questions, and sometimes propensity. A considered common-sense assessment of these, oral inquiries to gather objective material, and credible factors are sufficient to form a reasonable belief that an identified student may have the item. A negative result in a search can legitimately inform a new assessment of whether there are reasonable grounds to believe the item is in fact held by another identified student.

Only teachers and authorised staff may carry out searches. The names and positions held by authorised staff must be made available for inspection at the school. The method and manner of communication is a matter for each Board to decide but it must be available to staff, parents and students.

Parents and students cannot be asked by the Board or school staff to waive their rights as a condition of enrolment or at any other time. They can however, be advised of their obligation not to engage in behaviour that would compromise their or others' health and safety – and if they do, the consequences they may face.

All teachers are automatically authorised to act under the legislation. This includes a person with a Limited Authority to Teach, and a relief teacher employed by the Board.

The Board should consider who in its school (based on availability, suitability and position) will exercise powers under the legislation. In making these decisions, a Board may decide to place restrictions on what teachers may do. It's a good idea to make sure that more than one person is designated to carry out a search.

The legislation says that staff members who are not teachers may be authorised by the Board to use powers under the legislation. The authorised staff member must be an employee of the Board.

- (a) The Board must notify the authorised staff member in writing.
- (b) The authorisation must specify which powers the staff member is authorised to use.
- (c) The authorised staff member must acknowledge in writing the authorisation notice.
- (d) A copy of the authorisation must be given to the staff member.
- (e) The Board may revoke authorisation at any time in writing.

A simple letter, jointly signed by the Board Chair (or Board's delegate) and the authorised staff member, will be enough to cover off (a), (b), and (c) above.

A Board may delegate this task to the Principal.

Examples of authorised staff could include the school nurse, the guidance counsellor (if that person is not a teacher), a teacher

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aide, or a librarian. The decision about which employees should be authorised (if anyone at all), and what restrictions should exist, is up to the Board, but they must be fixed-term or permanent employees, not contracted to the Board.

Board members who are not staff members themselves cannot be authorised, and neither can Commissioners or Limited Statutory Managers.

Further clarification in regards to this policy is available in the "resources" folder located in the principal's office .

This policy is due for review every three years .

This policy will be reviewed as per the Board's Effectiveness Review Programme

Confirmed by the Board of Trustees on: 4/12/18 (date)

The planned review date will be: 3/12/20 (date)

T. O'Brien
Chairperson

Principal

