

NIPISSING-PARRY SOUND CATHOLIC DISTRICT SCHOOL BOARD

SEARCH AND SEIZURE IN A SCHOOL SETTING

AS 29.0
Section N
June 2014

PREAMBLE

The Nipissing-Parry Sound Catholic District School Board supports its staff in the maintenance of law, order and discipline in its schools and during school functions on and off school property. The Nipissing-Parry Sound Catholic District School Board therefore prohibits the possession, on school property or at authorized school functions off of school property, of substances or objects that may threaten good order, discipline and public safety. The NPSCDSB therefore authorizes Principals or their designates, on the basis of reasonable grounds to believe that a student or visitor is in possession of a prohibited substances or object, and in accordance with these procedures, to conduct searches and, where necessary, to seize prohibited substances or objects.

SEARCH LAND SEIZURE IN A SCHOOL SETTING

Search and Seizure

From time to time, proper investigation of an incident in a school may involve a search of a student or his/her property. A teacher may have reason to suspect that a student is carrying a concealed weapon. A student questioned with regard to a fight may blurt out that one of the antagonists sells drugs and keeps some in his locker. A student reports that her walkman has been stolen and indicates that she believes it was taken by another student and may be bound in his knapsack. What is the proper procedure to follow in circumstances such as these?

Canadian Charter of Rights and Freedoms

Section 8 of the *Canadian Charter of Rights and Freedoms* provides that: "Everyone has the right to be secure against unreasonable search and seizure". In applying this provision in a school context, Canadian courts have held that in carrying out the duty to maintain order and discipline in the school, the principal may search a student. However, the courts have ruled that the school authority must have reasonable grounds to believe that there has been a breach of school regulations and that a search of a student would reveal evidence of that breach.

Grounds for a Search

The courts have held that a warrant is not essential in order to conduct a search of a student by a school authority. The courts have recognized that school authorities are in the best position to assess information given to them and relate it to the situation existing in their school.

The following may constitute reasonable grounds:

- (a) information received from one student considered to be credible;
- (b) information received from more than one student;

SEARCH AND SEIZURE IN A SCHOOL SETTING

**AS 29.0
Section N
June 2014**

(c) a teacher's or principal's own observations; and

(d) any combination of these pieces of information which the school authority considers to be credible.

The compelling nature of the information and the credibility of these or other sources must be assessed by the school authority in the context of the circumstances existing at a particular school. Random or arbitrary searches or searches on groundless suspicion will likely be in contravention of the Charter.

The following would not likely provide an adequate foundation for "reasonable grounds" to believe there has been a breach of school rules:

- rumours, innuendoes or hunches;
- anonymous tips which are not corroborated in any way; or
- information which could reasonably be considered to be credible.

Factors to Consider

Educators assessing whether to undertake a personal search of a student should consider the following:

- A search should only be conducted when there are reasonable grounds to believe that a student or visitor is in possession of an object or substance that is prohibited by school policies or regulations.
- Principals and their designates should exercise reason and judgment in determining the scope of any search. Searches should be conducted in a sensitive manner and **be minimally intrusive**. Also consideration should be given to the age and gender of the student and the gravity of the infraction.
- Only principals or their designates should be permitted to conduct a search or seize prohibited objects or substances, unless there is an immediate threat to the safety of a person or persons or the school premises.
- All searches should be conducted in the presence of at least one adult witness. To be prudent, searches of a student's locker, desk or knapsack, should be conducted in the presence of the relevant student.
- All personal searches of a student should be conducted in the privacy of the principal's office or another suitable room designated by the principal. Where need for a personal search is indicated, the individual involved should be given the opportunity to produce the substance or object which he or she is suspected of possessing. **School authorities are advised not to undertake a cross-gender search.**

SEARCH AND SEIZURE IN A SCHOOL SETTING

**AS 29.0
Section N
June 2014**

- When a search is conducted, a record of all pertinent information should be documented. Information to be documented includes details of allegations, names of relevant parties and possible witnesses, time of relevant incidents, time and place of the investigation, parties interviewed, efforts made to contact parents, discussions held to date, and details of police involvement, if any. The principal should retain one copy of this documentation in a file separate from the student's Ontario Student Record. Access to, and disclosure of, such information is subject to the *Municipal Freedom of Information and Protection of Privacy Act*.
- Any prohibited substance or object discovered as the result of a search should be held and retained in a secure location. In all cases, a record should be kept of all seized substances or objects.
- In appropriate circumstances, where a prohibited substances or object is discovered as a result of a search, the principal or his or her designate should promptly contact the parent or guardian of a student under 18 years of age who is the subject of the investigation. The principal or designate should maintain a record of his or her attempts to contact the student's parent or guardian.