

Category: **STUDENTS**

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Subject: SEARCH & SEIZURE

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SUMMARY OF CHANGES

This regulation supersedes A-432 dated September 5, 2000.

It sets forth the standards and procedures by which students may be searched individually and by metal detectors.

Changes:

- Contact information has been updated.

ABSTRACT

This regulation supersedes and replaces Chancellor's Regulation A-432 dated September 5, 2000. Students have a constitutional right to be free from unreasonable searches and seizures. A student's person and possessions may be searched provided that school officials have reasonable suspicion to believe that the search will turn up evidence that the student has violated or is violating either the law and/or school rules and regulations. The extent and scope of the search must be reasonably related to the objective of the search and not excessively intrusive in light of the age and sex of the student and nature of the infraction. Searches should be conducted with a reasonable degree of privacy and consideration for the dignity of the individual. The following sets forth the procedures to be followed when students, their possessions and/or their lockers are searched.

I. SEARCHES

Personal and metal detection searches of students, their belongings and their lockers shall be conducted by School Safety Agents (SSAs) on behalf of the principal/designee as follows:

- A. Search of Students and their Belongings (e.g. book bags, clothing)
1. If there is reasonable suspicion to believe that a student has violated or is violating the law or school rules and regulations, the principal/designee must be so advised. If it is determined that a search is warranted, the principal/designee shall direct the SSA to bring the student to a location designated by the principal/designee. In the event of an emergency, refer to paragraph I.A.7.
 2. Once the student has been brought to that location, the principal/designee shall advise the student that the principal/designee has reasonable grounds to believe that the student has violated or is violating the law or school rules and regulations.
 3. The principal/designee must be present while the search of the student is conducted, except as indicated in paragraph I.A.7. below.
 4. Prior to conducting a search, the principal/designee shall ask the student whether the student has anything in his/her possession which he/she is not permitted to have in school. If the student acknowledges that he/she is in possession of contraband, the principal/designee shall ask the student to remove the object from the student's person or belongings.
 5. If the student declines to remove the item or indicates that he/she is not in possession of any contraband, the principal shall direct the SSA to search the student. To the maximum extent possible, if the search involves contact with the student, the search shall be conducted by a SSA of the same sex as the student being searched.
 6. If the SSA conducting the search finds an object which he/she believes may be evidence of the student having violated a law or school rule and regulation, the SSA shall ask the student to remove the object. If the student refuses to remove the object, the SSA shall remove it.
 7. In the event of an emergency which requires immediate intervention to protect the safety and security of the school community or any individual, a SSA may search a student provided the SSA has reasonable suspicion to believe that a student has violated or is violating the law or school rules and regulations. Once the emergency situation is under control, the SSA shall immediately take the student to the principal/designee and advise the principal/designee of the situation.
 8. Under no circumstances shall a strip-search of a student be conducted.

Search of Lockers

1. School lockers are the property of the Department of Education even when assigned to students. Lockers may be searched when there is reasonable suspicion to believe the lockers contain evidence that the student has violated or is violating the law and/or school rules and regulations.
2. If there is reasonable suspicion to believe a student's locker contains contraband, the principal/designee must be advised. If the principal/designee determines that a search is warranted, he/she shall direct the SSA or appropriate personnel to search the locker.
3. The principal/designee must be present while the search of the locker is conducted, except as indicated in paragraph II.B.4. below.
4. In the event of an emergency which requires immediate intervention to protect the safety and security of the school community or any individual, a SSA may search a student's locker provided the SSA has reasonable suspicion to believe that the locker contains evidence that a student has violated or is violating the law or school rules and regulations. Once the situation is under control, the SSA shall immediately advise the principal/designee of the situation.

II. **METAL DETECTION SEARCHES**

A. Overview

1. The purpose of the metal detector scan is to prevent weapons and/or contraband from entering the schools. At all times, the degree and nature of the search are not to go beyond what is necessary to allow staff to discharge their responsibility.
2. The principal/designee must be present to observe the scanning of students. Where there is more than one scanning site, designees shall be assigned at the direction of the principal to ensure proper coordination of the scanning procedure and follow-up activities.
3. Persons who refuse to cooperate with the scan will be referred to the principal/designee for appropriate action. Under no circumstances should a student who refuses to cooperate be denied admission or sent home.
4. If a pregnant student or a student for whom scanning is medically inadvisable does not wish to be scanned with the metal detector, he or she should be sent to the principal's office. The principal will then advise the SSA how to proceed.
5. Nothing in the procedures set forth below shall limit the authority of a principal or his/her designee or a SSA to search an individual or the individual's belongings when it is reasonable to believe that a particular individual is in possession of a weapon or any other contraband.

B. Use of Hand Held Detectors

1. All students entering the school building may be scanned. However, when necessary, the principal may elect not to scan every person. In such cases, the principal, in consultation with a SSA supervisor, will determine the proportion of persons to be scanned on a random basis.
2. Under no circumstances may school officials or SSAs select a particular individual(s) to be scanned unless there is reasonable suspicion to believe that individual(s) is in possession of a weapon and/or contraband.
3. All changes of the scan ratio and exceptions to the established ratio must be logged by the principal/designee. The log entry must indicate the person authorizing the change or exception along with the date, time and reason for the change.
4. Weapon scanning will be conducted to the maximum extent possible by SSAs of the same sex as the individual seeking admission to the building.

5. Reasonable efforts shall be made during the initial scanning process to avoid physical contact by the SSA or scanning equipment with the individual being scanned.
 6. The SSA conducting the scan will greet the individual to be scanned, fully explain the process, answer questions and give appropriate instructions.
 7. Prior to scanning, the SSA will request individuals to remove metal objects from their pockets and lay these items on a tray. This tray will be kept in public view and the contents returned as soon as the process has been completed.
 8. The SSA will proceed in the following manner:
 - a. The SSA will stand to the right side of the individual to be scanned. Scanning will begin at the right shoulder area and proceed down the left side to the feet.
 - b. The SSA will move to the rear of the individual and scan the right side from the feet to the head.
 - c. The SSA will then scan the back of the individual from the head to the feet.
 - d. As the SSA is moving to the left side, the SSA will scan the individual from the feet to the head, passing up the back over the head.
 - e. The SSA will then scan the individual's left side from the left chest to the feet.
 - f. All parcels or bags will be scanned by hand or by the use of an x-ray package scanner.
- C. Response to Activation of the Metal Detector
1. If the x-ray package scanner reveals a suspicious image or if the hand scanner is activated while scanning a bag or parcel, the owner will be so advised. If necessary, the SSA may feel the outside of the bag or parcel. Where the SSA has reasonable suspicion that the bag or parcel contains contraband, the SSA may open the bag or parcel. Otherwise, the SSA will request that the owner open the bag or parcel. The SSA will then examine the contents for contraband. If items in the bag or parcel must be shifted to provide a better view, the SSA will use a dowel stick to do so.
 2. If the hand held metal detector activates on a person and the source of the alarm is not apparent (e.g., jewelry), the SSA conducting the scan will direct the individual to remove any remaining metal objects from his/her person and will conduct a second scan. If the detector activates again, the principal/designee shall direct the SSA to escort the individual to a separate area and to conduct a search in accordance with the procedures outlined below.

Search Procedures

1. The search must be conducted in the presence and under the supervision of the principal/designee.
2. Prior to conducting the search, the principal/designee will once again ask the individual to remove any remaining metal objects from his/her person. If the individual declines to remove the objects, the individual will be searched as follows.
3. The search shall be conducted only in the area of the body which activated the metal detector. The search shall commence with the patting of the individual's external clothing in the vicinity of pockets, belts, shoulders, and other specific areas, for the limited purpose of discovering items which may have activated the metal detecting device.
4. If the SSA conducting the search feels an object which may have activated the metal detecting device, and the SSA reasonably believes that the object may be contraband, the SSA shall remove the object. Otherwise, the SSA shall ask the individual to remove the object. If the person refuses to remove the object, the SSA shall remove the object.

5. If the object voluntarily provided by the individual or removed from the individual could have activated the metal detector, and it is determined that this object did in fact activate the alarm, the SSA must cease performing the search. The SSA will then scan the individual again and the search will be continued only if the metal detector is activated again.

D. Use of Walk-Through Metal Detectors

The following procedures shall be used for walk-through metal detectors:

1. Phase I: Primary Walk-Through Detection
2. The SSA will request individuals to remove metal objects from their pockets and to place these articles in their school bag or in a designated place such as a tray.
 - a. Bags or parcels will be viewed by an “airport – style” x-ray machine. Once a bag or parcel is passed through the x-ray machine, the individual will walk through a detector.
 - b. SSAs will observe the metal level indicator of the walk-through detector while each individual passes through.
 - c. The level indicator registers visually how much metal is on the individual walking through the detector at that particular point and time.
 - d. The level indicator has the following range:
 - Green Light -Light amounts of metal.
 - Amber Light -Medium amounts of metal.
 - Red Light -Heavy amounts of metal.
 - e. A red alarm indicator and/or an audio alarm will be activated when an individual has exceeded the acceptable amount of metal.

When an alarm is activated, the individual passing through will be required to undergo additional scanning/searches will be directed to a secondary Metal Detector station (Phase II).

3. Phase II: Secondary Walk-Through Detection

Prior to directing the individual to pass through the secondary walk-through station the SSA will request the individual to re-check his/her person for any additional loose metal article(s) and place this/these article(s) in a tray when an x-ray machine is not available.

- a. The SSA will manually inspect these metal articles to ensure that there is no contraband.
- b. When an “airport – style” x-ray machine is available, the SSA shall direct all individuals to place any additional metal articles in their school bag or in a designated place such as a tray. The SSA will screen the contents of the school bag with aid of the x-ray machine.
- c. If the individual sets off the red alarm indicator and/or the audio alarm, the individual will be scanned with a hand held detector as set forth in II.B. above.

F. Discovery of Contraband (Weapons, Drugs, etc.)

1. Where a student is found to be in possession of illegal contraband, the appropriate procedures must be followed for notification of the police and arrest of the student. (See Chancellor’s Regulation A-412).
2. Where the police arrest a student for possession of illegal contraband or illegal contraband is found on school property, the police will take custody of and voucher the item seized.
3. School officials must request a copy of the NYPD voucher (property clerk’s invoice).

4. If the police do not take custody of contraband discovered on school property, the following procedures apply:
 - a. The principal/designee must voucher the item using a BOE voucher form and envelope. All required information must be included on the form.
 - b. The principal/designee must immediately notify the BOE's Division of Student Safety and Prevention Services (DSS&PS), which will arrange for the contraband to be picked up by the NYPD's School Safety Division. Weapons must be safely secured until surrendered to the NYPD's School Safety Division for transportation.
 - c. When the NYPD arrives to pick up the contraband, the principal/designee must turn over the contraband and voucher in a sealed voucher envelope.
 - d. If a school needs the contraband as evidence in a superintendent's suspension hearing, the principal/designee should contact the DSS&PS, which will make the necessary arrangements.

III. RETURN OF PROPERTY

All property removed from an individual which is not prohibited by Chancellor's Regulations or which is not evidence of a criminal act must be returned to the individual upon completion of the search.

IV. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

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| <u>Telephone:</u> 212-374-5090 | <i>Office of School Intervention and Development</i> NYC Department of Education 52 Chambers Street New York, NY 10007 | <u>Fax:</u> 212-374-5598 |
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