

405- Search and Seizure Policy

Approved by GWA Board of Directors December 18th, 2014

The Utah State Legislature and the Utah Board of Education have charged school authorities with the responsibility of safeguarding the safety and well-being of the students in their care. Utah law (Section 53A-11-1305) directs the Utah State Board of Education and local boards of education to have rules in place to protect individual student rights and guard against excessive intrusion. In the discharge of that responsibility, school authorities of George Washington Academy (GWA) may search school property such as lockers used by students, or the person or property, including backpacks, purses and belongings, electronic devices, and vehicles, in accordance with the following policy:

Definitions

A. "Appropriate school official" means the most appropriate school employee considering all the circumstances, who should search a student. Usually the appropriate school official will be the Executive Director or Assistant Director(s). Generally, the more intrusive the search, the higher the level the appropriate school official should be who conducts the search. Other factors would include age of the student, gender of the student, if the student has an IEP, the student's background, seriousness of the item(s) being searched for, which appropriate school official is reasonably available, and the urgency of the situation.

B. "Electronic device" means a privately owned device that is used for audio, video, or text communication or any other type of computer or computer-like instrument.

C. "Board of Directors" means the governing Board of Directors at George Washington Academy.

D. "Reasonable suspicion" means a particularized and objective basis, supported by specific articulable facts, for suspecting a person of criminal activity; reasonableness extends to both the reason for the search and the appropriateness of the scope of the search.

School Property - Lockers, Desks, Other Storage Areas Provided for Student Use

GWA acknowledges the need for in-school storage of student possessions and shall provide storage places, including desks, hooks for backpacks, and/or lockers, for that purpose. The appropriate school official may conduct a routine inspection of such storage places. In the course of any search, students' privacy rights will be respected regarding any items that are not illegal or otherwise prohibited by this policy.

A. All lockers and/or other storage areas provided for student use remain the property of the school/district. These lockers and storage areas are subject to inspection, access for maintenance, and search pursuant to this policy. A student using the locker or storage area has no expectation of privacy in that locker or storage area or the contents contained therein. In the course of any search, students' privacy rights will be respected regarding any items that are not illegal or otherwise prohibited by this policy. No student shall lock or otherwise impede access to any locker or storage area except with a lock provided by or approved by the teacher or school administrator. Unapproved locks may be removed and destroyed.

B. An appropriate school official may search student lockers and storage areas and the contents contained therein at any time for any justifiable reason.

C. An appropriate school official may, at any time, request assistance of the appropriate law enforcement agency having jurisdiction over the facilities of the District or school. The law enforcement officer must have probable cause, however, to personally orchestrate or conduct a search of the lockers and storage areas and their contents.

Using Dogs in Searching School Property

GWA authorizes the use of canines, trained in detecting the presence of drugs or devices, when the appropriate school official has reasonable suspicion that illegal drugs may be present in a school. This means of detection shall be used only to determine the presence of drugs in locker areas, student desks and other places in the school where such substances could be concealed. Canine detection must be conducted in collaboration with law enforcement authorities or other certified organizations and will not be used to search students personally unless either a warrant or parental permission has been obtained prior to the search. Where a dog sniff search is otherwise appropriate, it is acceptable to detain students or restrict their movement to facilitate the search. Also, GWA has the authority to require students to relinquish personal items from their possession (backpacks, book bags, gym bags) to facilitate searches.

Student Person and Possessions

GWA recognizes that the privacy of students or their belongings may not be violated by unreasonable search and seizure and directs that no students are searched without reasonable suspicion or in an unreasonable manner. The extent of the search will be governed by the urgency and seriousness of the alleged infraction, the student's age, and the student's disciplinary history.

Personal Search of a Student and Student Consent to Search

Except as provided below, a request for the search of a student or a student's possessions will be directed to the appropriate school official. The appropriate school official shall attempt to obtain

the freely-offered consent of the student to the inspection; however, provided there is reasonable suspicion, the appropriate school official may conduct the search without such consent. Whenever possible, a search will be conducted by the appropriate school official in the presence of the student and a staff member in addition to the appropriate school official. A search prompted by the reasonable belief that health and safety are immediately threatened will be conducted with as much speed and dispatch as may be required to protect persons and property. Search of a student's person or intimate personal belongings shall be conducted by a person of the student's gender, in the presence of another staff member of the same gender, and only in exceptional circumstances when the health or safety of the student or of others is immediately threatened. The personal search of a student may be conducted by the appropriate school official when the appropriate school official has reasonable suspicion for a search of that student. Authorized searches of the student's person are as follows:

- A. the student's pockets;
- B. purses, briefcases, or any objects in the possession of the student;
- C. a "pat down" of the exterior of the student's clothing and the removal of any identified item;
- D. removal of an article of exterior clothing such as a jacket;
- E. a student's electronic device if warranted and to the extent warranted.

Searching Students and Property While at School-Sponsored Activities

Authorization to search and seizure contained herein shall also apply to all situations in which a student(s) is/are under the jurisdiction of GWA—including all students participating in extracurricular activities and athletics, dually enrolled students and students taking online courses, when applicable.

Strip Searches

Strip searches shall be conducted only by law enforcement personnel with the appropriate school official's knowledge, if time permits to notify the appropriate school official.

Documentation of Search

The appropriate school official shall be responsible for the prompt recording in writing of each student search, including the reasons for the search; information received that established the need for the search and the name of the informant, if any; the persons present when the search was conducted; any substances or objects found and the disposition made of them; and any subsequent action taken. The appropriate school official shall be responsible for the custody, control, and disposition of any illegal or dangerous substance or objects taken from a student. The Executive Director or designee shall report a student's possession of a dangerous weapon consistent with Section 53A-11-1101.

Search Procedures

Pursuant to this policy, appropriate school officials shall use the following steps when appropriate school officials have reasonable suspicion that a student possesses evidence that a rule or law has been violated:

- A. All requests or suggestions for the search of a student or student's possessions shall be directed to the appropriate school official or the person in charge of the students if students are out of the school.
- B. Wherever possible, before conducting the search, the appropriate school official shall notify the student, request the student's consent to the inspection and inform the student that she may withhold consent. Such consent, if offered, shall be voluntary. The appropriate school official may conduct the search, however, with or without the consent.
- C. Wherever possible, an adult third party shall be present at any search of a student or student's possessions.
- D. The appropriate school official may conduct a student search upon reasonable suspicion of the presence of an illegal or dangerous substance or object, or anything contraband under school rules.

Health/Safety of Students

Whenever a search is prompted by the reasonable suspicion that possession of a substance or object immediately threatens the safety and health of the student or others, the appropriate school official shall act with as much speed and dispatch as is required to protect persons and property in the school while keeping clearly in mind the student's rights and the potential consequences of inappropriate or hasty action.

Reasonable Suspicion

As used in this section, "reasonable suspicion for a search" means grounds sufficient to cause an adult of normal intellect to believe that the search of a particular person, place, or thing will lead to the discovery of evidence that the student:

- A. has violated or is violating a rule or behavioral norm provided in school policy;
- B. has violated or is violating a particular law;
- C. possesses an item or substance which presents an immediate danger of physical harm or illness to students, staff or school/district property;

Method and Scope of Search

The scope of any search should be limited by the reasonable suspicion that motivated the search. If an item is found that leads to reasonable suspicion that additional, related items may also exist, the search may be extended. If the initial search produces no evidence of contraband, there should be no extension of the search based on simple curiosity or unreasonable suspicion.

Items Found

Anything found in the course of a search which is evidence of a student violation of school rules or federal/state laws may be seized and admitted as evidence in any suspension or expulsion proceeding. It may also be turned over to any law enforcement officer after proper notation and receipt.

Vehicles

Vehicles in the possession of students and parked on school premises may be searched, based on reasonable suspicion, by the appropriate school official. Searches of vehicles of staff members or visitors shall be conducted by law enforcement personnel.

Use of Breath - Test Instruments

The appropriate school official may arrange for a breath test for blood-alcohol to be conducted on a student whenever the school authority has individualized reasonable suspicion to believe the student has consumed an alcoholic beverage or an illegal unprescribed substance. The appropriate school official shall attempt to contact a local law enforcement agency and arrange for it to conduct the test. The following procedure should be used if the test is conducted by a school official:

A. Take the student(s) to a private administrative or instructional area on school property and have at least one other member of the teaching or administrative staff present as a witness to the test. If the student refuses to take the test, inform him that refusal to participate leaves the observed evidence of the alcohol or drug use unrefuted, thus leading to disciplinary action.

B. Allow the student a second opportunity to be tested, and if the student refuses again, ask the student to sign a refusal statement. Regardless of whether or not the student signs a refusal statement, prepare a written report of the incident.

Student Electronic Devices

School districts and charter schools are directed by Utah State Board of Education Rule (R277-495) to have policies specific to student possession and use of electronic devices. Parents shall receive specific notice of electronic device policies. Policies shall also outline consequences for student use of electronic devices in violation of the policy. Policies may include other information and directives regarding electronic devices.

Parent Notification

School officials have no obligation to contact parents before detaining and questioning students.