

SUBJECT: SEARCHES, INTERROGATIONS AND ALCOSENSOR TESTING

Students are protected by the Constitution from unreasonable searches and seizures. A student may be searched and contraband/ prohibited items seized on school grounds or in a school building by an authorized School District official (as designated below) only when the School District official has reasonable suspicion to believe the student is engaging in proscribed activity which is in violation of the law and/or the rules of the school (i.e., the District Code of Conduct).

Factors to be considered in determining whether reasonable suspicion exists to search a student include:

- a) The age of the student;
- b) The student's record and past history;
- c) The predominance and seriousness of the problem in the school where the search is directed;
- d) The probative value and reliability of the information used as a justification for the search;
- e) The school official's prior knowledge of and experience with the student; and
- f) The urgency to conduct the search without delay.

The Superintendent and the Building Principal and his/her designee are authorized to conduct searches of students and their belongings if the authorized school official has reasonable suspicion to believe that the search will produce evidence that the student has violated or is violating the law and/or the Code of Conduct.

If reasonable suspicion exists to believe that a student has violated or is violating the law and/or school rules, it is permissible for an authorized school official to search that student's outer clothing, pockets or property. The search may include, but is not limited to, the student's outer clothing such as a jacket or coat, pockets, backpack, and/or purse. Searches will be conducted by a staff member of the same sex as the student. Whenever possible, another staff member, also of the same sex, will be present as a witness.

Strip Searches

Strip searches are intrusive in nature and are not permissible. A strip search is a search that requires a student to remove any or all of his or her clothing, other than an outer coat or jacket. If school authorities believe there is an emergency situation that could threaten the safety of others, the student shall, to the extent practicable, be isolated and secured. Police and parents will be contacted immediately.

Student Lockers, Desks and Other School Storage Places

Lockers, desks, electronic files and other school storage are provided by the school for student use. Students have no reasonable expectation of privacy with respect to these places and school officials retain complete control over them. This means that student lockers, desk, computer files and other school storage may be subject to search at any time, without prior notice to students and without their consent.

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Vehicles

Student use of a motor vehicle on school property is a privilege. Motor vehicles driven onto school property by students are subject to search by school officials without notice or consent, if the school official reasonably suspects that the student or his/her passenger has engaged in activity which is in violation of school rules and/or is illegal, or that the contents of the motor vehicle may present a threat or potential threat to the health, safety, or welfare of students, staff, or the school in general.

Cell Phones, Pagers, and Other Personal Electronic Signaling Devices

Student cell phones, pagers, and other personal electronic signaling devices, and their contents, including, but not limited to, text messages, video/picture messages, and digital photos, may be searched by school officials who have a reasonable suspicion that the search will provide evidence that a student has violated either the law or a school rule.

Questioning of Students by School Officials

School officials have the right to question students regarding any violations of school rules and/or illegal activity. In general, administration may conduct investigations concerning reports of misconduct which may include, but are not limited to, questioning students, staff, parents/guardians, or other individuals as may be appropriate and, when necessary, determining disciplinary action in accordance with applicable due process rights.

Should the questioning of students by school officials focus on the actions of one particular student, the student will be questioned, if possible, in private by the appropriate school administrator. The student's parent/guardian may be contact in unusual circumstances, but that is not required. The degree, if any, of parental/guardian involvement will vary depending upon the nature and reason for questioning and the necessity for further action which may occur as a result.

The questioning of students by school officials does not preclude subsequent questioning/ interrogations by police authorities as otherwise permitted by law. Similarly, the questioning of students by school officials does not negate the right/responsibility of school officials to contact appropriate law enforcement agencies, as may be necessary, with regard to such statements given by students to school officials.

School officials acting alone and on their own authority, without the involvement of or on behalf of law enforcement officials (at least until after the questioning of students by school authorities has been conducted) are not required to give the so-called "Miranda warnings" (*i.e.*, advising a person, prior to any custodial interrogations as defined in law, of the right to remain silent; that any statement made by the individual may be used as evidence against him/her; and that the individual has the right to the presence of an attorney, either retained or appointed) prior to the questioning of students.

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Protocol for Administering an Alcosensor Test (Breathalyzer) to a Student

Whenever there is reasonable cause to suspect (reasonable suspicion) that a student is violating the Code of Conduct provisions addressing alcohol (possessing, consuming, selling, distributing or exchanging alcoholic substances or being under the influence of an alcoholic substance), the student shall be administered an alcosensor (breathalyzer or similar device) test unless the student unequivocally admits to being in violation of the Code of Conduct with respect to alcoholic substance and signs a written statement of admission if requested and physically able to do so. In determining whether or not reasonable suspicion exists of a Code of Conduct violation with respect to alcoholic substances, the facts and circumstances of each case shall be taken into account. Conduct such as slurring of words, staggering, stumbling, unusual difficulty with coordination, smelling like alcohol (whether from the student's breath or clothing or items in the possession of the student or under the control of the student or which have been brought to the school or school property or function or event by the student) are normally factors giving rise to a reasonable suspicion of a violation of the Code of Conduct with respect to alcohol. When reasonable suspicion exists, neither the consent of the student nor of the student's parent or parents is required. Administration of the test shall be conducted in a reasonably private space or place by a District employee trained in administering the test. The results of the test will be provided to the student to whom the test has been administered but not to any other student or individual accompanying the student (except to the parent or parents of the student if the parent or parents are accompanying the student). The disclosure of the results shall, to the extent practicable, be revealed in a reasonably private space or place so as to limit, to the extent practicable, the possibility of being overheard by other students (or peers accompanying the student). The results will be provided to the student's parent(s) as soon as is reasonably practicable. Nothing in this protocol, however, prohibits or discourages the disclosure of the test results to any District administrator, teacher, chaperone or other adult who has any supervisory or protective responsibility for the student at the time or who otherwise has a legitimate educational interest in learning of the test results or to any emergency responder for the purpose of assessment, triage or emergency treatment. One or both parents of the student shall be called upon the student either admitting to being in violation of the Code of Conduct provisions concerning alcoholic substances or the obtaining of a test result indicating any consumption of an alcoholic substance or being under the influence of alcohol to any extent. The parent or parents shall be requested to come to the location and remove the student from the school or function or the event location. Alcosensor testing shall not be required of a student for entry into a school building or school property or school function or event unless there is reasonable suspicion of a violation of the Code of Conduct concerning alcohol. Students may, however, be required to sign a statement in order to gain entry into special events such as a prom or other dance or special event stating the following:

"I understand that the Churchville-Chili Central School District Code of Conduct applies at the _____ (*insert name of the event, such as prom or other dance or other special event*) and that the Code of

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Conduct prohibits possessing, consuming, selling, distributing or exchanging alcoholic substances (including powdered alcohol) or being under the influence of any alcoholic substance, and I commit to complying with that rule. I understand that actions taken off school property premises, such as consuming alcoholic or illegal substances before coming onto school property or to a school function or event, can result in a violation of the Code of Conduct for being under the influence of an alcoholic or illegal substance.”

When there is a reasonable suspicion to suspect that a student is in violation of the Code of Conduct with respect to the prohibitions concerning alcoholic and illegal substances and the student refuses to undergo alcosensor testing or refuses to reasonably cooperate with the testing, the student may be found to be in violation of the Code of Conduct for engaging in conduct that is insubordinate. In no event shall the District administer a blood test or urine test for detection of alcoholic or illegal substances.

Documentation of Searches

The authorized school official conducting a search shall be responsible for promptly recording the following information about each search:

- 1) Name, age and grade of student searched
- 2) Reasons for the search
- 3) Name of any informant(s)
- 4) Purpose of search (that is, what item(s) were being sought)
- 5) Type and scope of search
- 6) Person conducting search and his or her title and position
- 7) Witnesses, if any, to the search
- 8) Time and location of search
- 9) Results of search (that is, what item(s) were found)
- 10) Disposition of items found
- 11) Time manner and results of parental notification

The Security Department shall be responsible for the custody, control and disposition of any illegal or dangerous item taken from a student. The Security Department shall clearly label each item taken from the student and retain control of the item(s), until the item(s) is turned over to the police. The Security Department shall be responsible for personally delivering dangerous or illegal items to the police authorities.

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Law Enforcement Officials

It shall be the policy of the Churchville-Chili Central School District that a cooperative effort shall be maintained between the school administration and law enforcement agencies. Law enforcement officials may be summoned in order to conduct an investigation of alleged criminal conduct on school premises or during a school-sponsored activity, or to maintain the educational environment. They may also be summoned for the purpose of maintaining or restoring order when the presence of such officers is necessary to prevent injury to persons or property.

Administrators have the responsibility and the authority to determine when the assistance of law enforcement officers is necessary within their respective jurisdictions. The School District's administrators shall at all times act in a manner that protects and guarantees the rights of students and parents.

Searches and Interrogation of Students by Law Enforcement Officials

If police are involved in the questioning of students on school premises, whether or not at the request of school authorities, it will be in accordance with applicable law and due process rights afforded students. Police officials, however, have limited authority to interview or search students in schools or at school functions, or to use school facilities in connection with police work. Police officials may enter school property or a school function to question or search a student or to conduct a formal investigation involving students only if they have:

- 1) a search warrant; or
- 2) probable cause to believe a crime has been committed on school property or at a school function; or
- 3) been invited by school officials.

Before police officials are permitted to question or search any student under the age of 16, the Building Administrator or his or her designee or a police official shall first try to notify the student's parent(s)/guardian(s) to give the parent(s)/guardian(s) the opportunity to be present during the police questioning or search. The Building Administrator or designee will be present during any police questioning or search of a student on school property or at a school function.

Students who are questioned by police officials on school property or at a school function will be afforded the same rights they have outside the school.

Family Court Act Section 1024
Education Law Sections 1604(9), 1604(30), 1709(2), 1709(33) and 2801
Social Services Law Sections 411-428
8 New York Code of Rules and Regulations (NYCRR) Section 100.2(l)

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