

## **SEARCHES ON SCHOOL PREMISES**

This purpose of this regulation is to implement BP 5145.12 and to identify the circumstances under which searches on Monterey County Office of Education (MCOE) school and center premises may be made.

Students possess the right of privacy of person as well as freedom from unreasonable search and seizure of property, as guaranteed by the Fourth Amendment to the United States Constitution. These individual rights, however, must be balanced by MCOE responsibility for the health, safety, and welfare of all students. The right of the County Board and its administrators to inspect students' personal property or articles carried upon their persons is to be exercised only in order to preserve discipline and good order, or to promote the safety and security of persons and their property within the area of educational responsibility. Even when a search of the person of a student is clearly justified, the search shall be conducted with all possible respect for the student and without the use of unnecessary force.

It has been held that school authorities are not law enforcement officials and that the complex legal rules governing searches and seizures under the Fourth Amendment do not apply to them (*In re Christopher N.*, 29 Cal.App.3d 780). The rules and guidelines contained in this regulation, however, shall at all times regulate the conduct of MCOE administrators and officials when conducting a search of students' personal property or articles carried upon their person [Education Code (E.C.) 44807].

### **Search Regulations**

The decision to search shall be made by the MCOE site principal or designee. The search shall be made in the presence of at least one witness. This provision may be waived under extraordinary circumstances when the immediacy of the situation prohibits summoning of witnesses. The search shall be conducted with all possible respect for the student and without the use of unnecessary force. Under no circumstances shall any MCOE employee conduct a search of a student's body cavity or a search that requires the removal or arranging of a student's clothing to permit a visual inspection of underclothing or private bodily parts [E.C. 49050].

In cases of emergency and the unavailability of students who own or use the property that is being inspected, the MCOE site principal or designee may inspect such property. However, upon the student's return to school, the student shall be informed that such property has been inspected.

**Justification for Search**

The following determinations shall be made by MCOE school officials relative to the seizure of items in the student's possession and the search of the school property (lockers, desks) assigned to the student:

- There is reasonable cause to believe that possession constitutes a crime or school rule violation, or that the student possesses evidence of a crime or violation of the law;
- There is reason to believe that a student's locker or property is being used in such a way as to endanger the student's health or safety, or the health, safety, and rights of others;
- There is reason to believe there are weapons or dangerous materials on the school premises. As such MCOE school officials must retain the right to act (i.e., to search a student's desk, locker, or person, and to seize property in the case of emergencies such as a fire or bomb).

Because lockers are under the joint control of the student and MCOE, MCOE officials shall have the right and ability to open and inspect any school locker without student permission when they have reasonable suspicion that the search will disclose evidence of illegal possessions or activity, or when odors, smoke, fire, and/or other threats to student health, welfare, or safety emanate from the locker.

**Search Procedures: Use of Dogs**

In an effort to keep schools free from drugs and explosive items, MCOE may use specially trained non-aggressive dogs to sniff out and alert staff to the presence of substances or other items prohibited by law or MCOE policy. The dogs may sniff the air around lockers, desks, bags, items, or vehicles on MCOE property or at MCOE-sponsored events as long as they are not allowed to sniff within the close proximity of any students.

Drug and/or explosive detection dogs shall not be used in rooms occupied by persons except for demonstration purposes, with the handler present. When used for demonstration purposes, the dog shall be separated from students and not allowed to sniff any individual student.

Only the dog's handler shall determine what constitutes an alert by the dog. If the dog alerts on a particular item or place, the student having the use of that item or place, or responsibility for it, shall be called to witness the search. If a dog alerts on a locked vehicle, the student who brought the vehicle onto MCOE property shall be asked to unlock it for inspection.

The use of dog searches shall be conducted in a random fashion which excludes individual discretion as to who will be searched.

**Search Procedures: Use of Metal Detectors**

In an effort to keep schools free from weapons, MCOE may use standard or portable metal detectors to alert staff to the presence of weapons or other metal items prohibited by law or MCOE policy.

Metal detector searches shall be conducted in a random fashion which excludes individual discretion as to who will be searched.

**Notification to Parents and Students**

At the beginning of each school year, and whenever students are assigned lockers, desks, or other MCOE property, the MCOE site principal shall ensure that all students and their parents/guardians are notified in writing of the procedures governing MCOE inspection of students' personal property, and the possibility of random searches of students, their belongings, and MCOE properties under student control [E.C. 48980].