

Students

Search and Seizure

Use of Dogs to Search School Property

Statement of Purpose

It is the highest purpose of any Public School System to provide for a safe and conducive environment which allows for the fullest academic success for every student. To facilitate this endeavor the Newtown Board of Education (NBOE) believes that all students are entitled to a drug-free school environment. To that end, the Board supports proactive initiatives to effectively deter the possession and use of illegal substances in our schools. The Board of Education acknowledges its civic responsibility to conduct government search activities consistent with law and with respect to the protections contained in the Constitution of the State of Connecticut and the United States.

*When society requires large groups of students, too young to be considered capable of mature restraint in their use of illegal substances or dangerous instrumentalities, **it assumes a duty to protect them** from the dangers posed by anti-social activities-their own and those of other students-and provide them with an environment in which education is possible.*

690 F2d 470 Horton v. Goose Creek Independent School District

Procedures for Canine Search

The NBOE authorizes the Superintendent of Schools or the BOE Director of Security, to call for exploratory canine sniffs on school property including, but not limited to lockers, backpacks, purses, briefcases or other containers, all parking areas, and the outside perimeter of school grounds, by the Newtown Police Department. Such exploratory canine sniffs shall be executed using canine teams (canine and sworn law enforcement handler) trained and certified for the purpose of detecting illegal substances, including but not limited to marijuana, cocaine, heroin, and crack cocaine.

Exploratory canine sniffs shall occur at random intervals as determined by the Superintendent of Schools or the BOE Security Director in consultation with the Newtown Police Department. The use of canine sniffing dogs shall be subject to the following:

1. Parents and students shall be notified of this policy through its inclusion in the school's student handbook.

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2. Parents and students shall be notified that the lockers are provided to the students for their convenience; however, they are the exclusive property of the Newtown Board of Education and subject to search as governed by the Constitution of the State of Connecticut and the United States, Federal Law, State Statute and Town Ordinance.
3. All searches shall be authorized jointly by the Newtown Board of Education (Superintendent of Schools and/or the BOE Director of Security) and the Newtown Police Department (Chief of Police and/or the Newtown Police Technical Services Bureau Commander).
4. All searches shall be conducted in the presence of the Superintendent of Schools and/or the BOE Director of Security, and every reasonable effort will be made to ensure that searches are conducted outside the view of students and staff not assigned to the search.
5. Individuals shall not be subject to exploratory canine sniffs.
6. While students may be in the building during a search, reasonable efforts shall be made to exclude students and staff not assigned to the search from any areas where a search is being conducted.
7. Only the certified law enforcement officer handling the canine shall determine what constitutes an illegal substances alert (indicates that he senses the presence of illegal substances) by the certified canine.
8. If a canine alerts on a particular vehicle, the individual who drove said vehicle onto school property shall be called to witness the physical search of the vehicle and be asked to cooperate by the opening of the vehicle in question.
9. Any backpacks, purses, briefcases, or other containers carried by any individual for whom reasonable suspicion has been obtained shall be instructed to relinquish their baggage and have it separated from their person for an exploratory canine sniff.

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10. If physical search findings of the vehicle indicate no evidence of illegal substances the student and his/her parent or guardian shall be notified of the incident by the Principal or the Vice Principal for informational purpose only. Notification shall include an explanation that the alert may have been erroneous, or that illegal substances may have previously been present in the locker, backpack, purse, brief case, other container or vehicle. Confidentiality and students' right to privacy shall be diligently enforced.
11. In addition to any law enforcement action that may occur, students alleged to have violated school policies may be subject to appropriate disciplinary action in accordance with applicable Board policies.
12. All searches shall be conducted consistent with all applicable law. If any provisions of this policy shall be deemed unenforceable or illegal, the remaining provisions of this policy shall remain in full force and effect.

School Disciplinary Action/Law Enforcement Action

Interior Searches

Appropriate school based disciplinary action in accordance with applicable Board policies for positive results in the administrator's search shall be at the sole discretion of the Superintendent or their designee. The Superintendent, BOE Director of Security, Principal, or their designee shall turn over any illegal or illicit substances located during the administrator's search. It shall be within the discretion of the Superintendent whether or not to furnish the identity of the individual alleged to have possessed the substances. It shall then be at the discretion of the Newtown Police Department, if furnished with the identity of the individual, whether or not to arrest and prosecute.

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Exterior Searches

Positive results of any physical vehicle or container search will result in the seizure of any illegal or illicit substances by the Newtown Police Department. The identity of the operator/owner of the vehicle or container shall be provided to the BOE representative on site. The decision to arrest and prosecute shall solely be at the discretion of the Newtown Police Department and the decision on appropriate school based disciplinary action will be at the sole discretion of the Superintendent or their designee.

Regulations

Internal Building Searches

In the area designated for the exploratory canine sniffs immediately prior to the planned start of the exploratory canine sniff, the teachers shall be notified to have the incoming students deposit their backpacks, purses, briefcases and other containers in the hallway prior to entering the classrooms. Hallways selected for exploratory canine sniffs shall be constantly monitored by school administrators, ERT members, law enforcement, and/or CCTV to ensure the safety and integrity of personal property.

K9s/Handlers will conduct exploratory canine sniffs of assigned areas and note positive indications from K9s. Secondary K9 Team will make a second blind exploratory canine sniff of the assigned area and note positive indications from K9s. Areas/Lockers/Items with two positive indications will be subject to school administrator searches. Searches will include lockers above/below and next to the locker with a double positive indication. Items with double indications will be searched in addition to items on either side.

Administrator searches shall be conducted only in the presence of the student assigned to the locker or identified owner of the backpack, purse, briefcase or container.

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External Building Searches

Prior to the planned start of the search the front gate shall be closed for entry and exit. All vehicles attempting to exit shall be stopped until such time as an assigned K9 Team can conduct an exterior sniff of the vehicle. Once the vehicle has been sniffed without a positive indication the vehicle can be allowed to leave the premises.

All incoming vehicles will be diverted to the lower lot near the cafeteria and the operators will be instructed to stay in their vehicles until provided with further instruction by law enforcement. An assigned K9 Team will conduct sniffs of all vehicles in the lot and operators will be allowed to proceed upon approval by the incident commander.

Lots will be broken down into smaller working areas. K9 Teams will be assigned primary and secondary exploratory canine sniff areas. K9 Teams will conduct an exploratory canine sniff of their entire assigned primary search area, including all non-law enforcement vehicles (student, staff, contractor, vendor and visitor), then will conduct an exploratory canine sniff of the rows from the secondary exploratory canine sniff area in which there were positive indications from the primary exploratory K9 team. Secondary K9 Teams will not be informed of which vehicles had the initial positive indication. Assigned school administrators or designees will keep track of positive indications (initial and secondary). Vehicles with two positive indications will be subject to physical search by K9 handlers when the owners/operators have been brought on scene by school administrators. Should an owner/operator be carrying personal belongings in a container (backpack, purse, briefcase, etc.) they will be instructed to place the item(s) on the ground and step away from them. A K9 Team will then conduct an exploratory canine sniff of the items placed on the ground by the owner/operator.

At no time will any individual be directly searched/sniffed by any K9. A single positive indication of any containers previously carried by the owner/operator will be sufficient cause for a law enforcement search of the item based upon the probable cause developed by the K9 positive indication on the container.

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External Building Searches

After the owner/operator is interviewed by the assigned law enforcement personnel the vehicle will be physically searched.

(cf. # - 5145.12 Search and Seizure)

Legal Reference: Connecticut General Statutes
10-221 Boards of education to prescribe rules.
54-33n Search of school lockers and property.
No. CV094043192S, 2009 WL 3366272 (Conn. Super. Ct. Sept. 14, 2009).
New Jersey v T.L.O., 53 U.S.L.W. 4083 (1985)
United States v. Place, 462 U.S. 696, (1983)
Bd. of Educ. of Indep. Sch. Dist. No. 92 v. Earls, 536 U.S. 822 (2002).