

## **Students**

### **Search and Seizure**

### **Breathalyzer Testing**

This policy provides the basic structure for the use of passive and active alcohol sensors in Newtown to detect/confirm alcohol consumption by students.

The passive alcohol sensor device is a non-invasive high-speed breath alcohol-screening instrument which can be used as a “sniffer” for overt or covert alcohol detection. This device may be used to sample a student’s breath and/or beverage container in order to detect alcohol use.

The District does not consider the use of a passive alcohol-screening device as constituting a “search”; therefore the issue of trespass or intrusion into a student’s privacy is not a factor in the use of this device. Passive alcohol screening may be conducted with all students entering a school sponsored event or with a methodology-based representative sample of students entering a school sponsored event (e.g. every 5<sup>th</sup> student, every 10<sup>th</sup> student, etc.), or with individual students when reasonable suspicion exists that a student is under the influence or has used alcohol.

Administrators will use an active device only when a student has demonstrated alcohol use with a passive device. Reasonable suspicion shall refer to any of the following:

1. Observed use or possession of alcohol;
2. Apparent physical state of impairment of motor functions;
3. Marked changes in personal behavior not attributable to other factors; or
4. Involvement in, or contribution to, a vehicular accident where the use of alcohol is reasonably suspected.

All due process rights of students will be observed. Further, the Board allows the use of passive alcohol sensor devices at school, on school buses or at any school-sponsored activity.

The passive screening device shall be checked for accuracy and for full calibration at least as frequently as recommended by the manufacturer.

Designated school personnel and/or the school resource officer(s) will be trained in the use of such instruments.

Students, parents/guardians and staff will be notified of the intended use of the passive and active alcohol sensor devices. This notification shall be done through announcements, written documentation, assembly demonstration or classroom discussions, and will be included in school handbooks.

## Students

### Search and Seizure

#### Breathalyzer Testing (continued)

When an administrator has reasonable suspicion that a student is in possession of and/or under the influence of alcohol at school or a school-sponsored event, the student shall be given a passive alcohol sensor screening. If the student fails the passive assessment, he/she will be given a ~~fifteen~~-five-minute wait period after which the passive screening will be re-administered. If the second screening results are negative, no action shall be taken. However, if the student tests positive during the second passive screening, he/she will be given an active breathalyzer test. If the student declines to take the active screening, when reasonable suspicion exists, or if such screening proves positive, he/she shall be subject to appropriate disciplinary action as set out in the District's disciplinary policies.

(cf. 5114 - Suspension/Expulsion)  
(cf. 5131 - Conduct)  
(cf. 5131.6 - Drugs, Alcohol, Tobacco)  
(cf. 5131.8 - Out of School Misconduct)  
(cf. 5144 - Discipline/Punishment)  
(cf. 5145.11 - Questioning and Apprehension)  
(cf. 5145.12 - Search and Seizure)

Legal Reference:      Connecticut General Statutes  
                                 10a-18 Programs to be offered on effects of drugs and alcohol.  
                                 10-19 Teaching about alcohol, nicotine or tobacco, drugs and acquired  
                                 immune deficiency syndrome. Training of personnel.  
                                 10-154a Professional communications between teacher or nurse and  
                                 student. Surrender of physical evidence obtained from students.  
                                 10-221d Boards of education to prescribe rules re; use, sale or possession.  
                                 21a-240 Definitions, dependency producing drugs.  
                                 21a-243 Regulation re schedules of controlled substances.  
                                 *New Jersey v. T.L.O.*, 469 325; 105 S.Ct. 733 (1985)  
                                 *Veronia School District 47J v. Acton*, 515 U.S. 646 (1995)  
                                 *Todd v. Rush County Schools*, 133F.3d 984 (7<sup>th</sup> Cir. 1998)  
                                 *Knox County Education Association v. Knox County Board of Education*,  
                                 158 F3d 361, 3885-386 (6<sup>th</sup> Cir. 1998)

## Students

### Search and Seizure

### Breathalyzer Testing - Regulation

Given reasonable suspicion of alcohol consumption by a student, or if the student fails the initial passive screening, the administration will follow these procedures:

- The student will be removed to ~~the~~ an office area for observation and questioning concerning alcohol consumption.
- The student may at any point confirm or deny the report of possible alcohol consumption.
- After a ~~fifteen~~ five minute waiting period, the student will be informed of the passive alcohol sensor test and how it operates. The student will be requested to breathe across the intake part of the device.
- The administration will then inform the student of the device's findings — alcohol was either detected on the sensor or the sensor did not detect alcohol.
- If alcohol was detected, the administration will request that the student take an active breathalyzer test.
- If the student continues to deny consumption or refuses to take the active breathalyzer test, or tests positive on the active breathalyzer test, the student will be disciplined according to the Newtown District's discipline/punishment policy.
- The student's parents will be informed of the disciplinary actions to be taken.

In addition, the administration will:

- Publicize the intent and procedure with parents/guardians.
- Hold student meetings to present and clarify the intent and procedure.

(cf. 5114 - Suspension/Expulsion)

(cf. 5131 - Conduct)

(cf. 5131.6 - Drugs, Alcohol, Tobacco)

(cf. 5131.8 - Out of School Misconduct)

(cf. 5144 - Discipline/Punishment)

(cf. 5145.11 - Questioning and Apprehension)

(cf. 5145.12 - Search and Seizure)

Regulation approved: November 3, 2021