

LL#249315

JIHA
JIHA-E-1
JK**SEARCH OF STUDENT DESKS, LOCKERS, STORAGE AREAS,
STUDENT EFFECTS AND STUDENT DRIVEN VEHICLES**

The Public Schools Act of Manitoba prescribes, as one of the duties of a School Board, the requirement to “....ensure that each pupil enrolled in a school within the jurisdiction of the school board is provided with a safe and caring school environment that fosters and maintains respectful and responsible behaviours.” (PSA Section 41(1) b.1) It is recognized that from time to time in order to meet this expectation it is required that school authorities and/or Winnipeg Police Services undertake a search of a student or a student’s effects.

What does Search and Seizure mean?

When necessary, teachers must be able to quickly intervene, search students, and seize articles or items that interfere with the safety and maintenance of a learning environment. Student searches cannot be at the expense of students’ basic rights. The Supreme Court of Canada’s decision in *R. v. M. (M.R.)* found a balance between these two positions by requiring the search to be both reasonable at its inception and reasonable in scope.

The Supreme Court of Canada mandated a two-part procedure.

1. Is the search reasonable at its inception?

- a. Teachers and school administrators must have reasonable grounds to believe there has been a breach of school regulations or discipline. The information received must be credible; it should be from a reliable source. The information could come from a student, personal observations or colleagues.

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- b. Having received information that a violation of school policy by a particular student has/is taking place, teachers and school administrators must believe that a search of this student or the student's possessions would reveal further evidence of that breach.

2. Is the scope of the search reasonable?

- a. If there are reasonable grounds based on credible information that the student has violated school policy and that the search would result in supporting evidence, a search is permissible.
- b. The search must be conducted in a sensitive and minimally intrusive manner. Factors such as age and gender of the student, the gender of those performing the search, and where the search is conducted must be taken into consideration.

Should it become necessary to search a student or any of a student's effects these procedures will be followed to the best of the Division's representative's abilities, subject to the urgency of the response. The primary purpose for such inspections shall be the protection of health, safety, and general welfare of students, staff, or school property.

Desks, Lockers, Storage Areas Utilized by Students, and Student Effects

Student lockers, desks and storage areas provided by the school are the property of the Division.

In order for middle years and senior years students to be issued a locker in a school, both parent/guardian and student must sign a Parent/Guardian and Student Consent for Use of Locker form (JIHA-E-1) at the time of registration in accordance with Policy JIHA and this corresponding regulation.

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For early years students, both parent/guardian and student must sign the Parent/Guardian and Student Consent for Search form (JIHA-E-2) at the time of registration in accordance with Policy JIHA and this corresponding regulation.

School administrators have the authority to inspect lockers, desks and storage areas wherever they have reasonable grounds to believe a school or division regulation, rule or discipline has been breached or a violation of the law has occurred and the search will reveal evidence of that breach or violation. Random searches should only be undertaken following advice from legal counsel.

When reasonably possible the student will be informed and present when a locker, desk or storage area search is conducted. If it was not possible for the student to be present, the student shall be informed as soon as convenient of any item(s) removed from the locker, desk or storage area believed to be placed there by the student.

The inspection of a locker(s), desk(s), or storage area(s) shall be conducted by two (2) adults, at least one of whom must be a school administrator or designate. Should an inspection result in the discovery of any material(s) which is inappropriate, the school administrator or designate has the authority to remove the material(s) or seal the locker, desk, or storage area for the purpose of seeking the solicitor's advice or contacting the Winnipeg Police Service.

School administrators or designates also have the authority to search the student's personal effects (personal effects may include but are not limited to: purse, wallet, backpack, book bag, outer clothing) whenever they have reasonable grounds to believe a student has breached a regulation, rule or discipline of the school or division, or violated the law, and that a search will reveal evidence of such a breach or violation. Staff will not directly search the student(s) but will require them to empty the contents of pockets, and/or personal effects.

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Under no circumstances will a staff member conduct a body search, but, if there is reason to believe a police search is required students may be detained by the school administrator or designate under close supervision.

If a student refuses a search of personal effects, the school administrator or designate will advise the student and the student's parents/guardians that the Winnipeg Police Service will be contacted.

Student Driven Vehicles

Vehicles brought by students and parked on school property are subject to inspection by school authorities at any time a school authority has reasonable grounds to believe a student has breached a regulation, rule or discipline of the school or division, or violated the law and that a search will reveal evidence of such a breach or violation. Refusal by a student, parent/guardian, or owner of the vehicle to allow access to a motor vehicle on school premises at the time of a request to search the vehicle shall be cause for termination without further hearing of the privilege of bringing the vehicle on to school premises; and may result in a report of the refusal to the Winnipeg Police Service.

Routine patrolling of student parking lots and inspection of the outside of student automobiles is permitted at all times.

Responding to the Results of a Search

Following any search or seizure, the school administrator or designate will determine whether or not the results warrant the involvement of Winnipeg Police Services. Illegal or contraband materials found or seized shall be turned over to the authorities for final disposition. Discipline arising out of the results of a search or seizure will be assigned in accordance with JK, [Code of Conduct](#) by the school administrator or designate.

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Police Involvement in Searches

School authorities will cooperate with police when:

- a) they present the school administrator or designate with a properly executed search warrant;
- b) as part of a search following an arrest;
- c) as part of a search for weapons only following a detention based on reasonable suspicion that the student has engaged in criminal conduct for which the police are investigating; or
- d) if urgent circumstances exist such as where there is a risk of physical harm to individuals.

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