

**FARM COVE INTERMEDIATE SCHOOL
SEARCH, SURRENDER AND RETENTION OF PROPERTY POLICY**

NAG 6 - LEGISLATION

Rationale

In order to ensure the health and safety of all who work at, attend and visit Farm Cove Intermediate School (FCI), the school will take steps to clearly outline items or materials that are acceptable at school and where there is a breach ensure that such items and/or material are safely and lawfully, retrieved, retained and disposed of.

Purpose

To provide guidelines to Staff and Authorised Staff Members around Search, Surrender and Retention of Property.

Guidelines

Guiding principles

1. All schools are required to provide a safe, physical and emotional environment for the students and staff.
2. Parents, students and the public have an expectation that school environments will be free from drugs, weapons, alcohol and bullying in all forms including cyber-bullying.
3. In exercising powers enacted around search and retention of property, schools must act reasonably, in good faith and in the least intrusive manner to achieve a safe environment.
4. Everyone has the right to be secure against unreasonable search and seizure whether of the person, property, correspondence or otherwise.

Who may use this legislation?

All teachers are automatically authorised to act under the legislation. The school may also appoint Authorised Staff Members who are not teachers. The school's Board of Trustees may appoint Authorised Staff Members. When appointing an Authorised Staff Member the process must be in writing, must clearly specify which powers the staff member is authorised to use and be signed by both parties.

All teachers and authorised staff members at FCI must have a working knowledge of this policy. Improper use or abuse of this legislation may open the school and individual to civil action.

Conditions for Embarking on a Search

When necessary, any teacher or authorised staff member may embark on a search if they believe on reasonable grounds that a student has an item that is:

- Likely to endanger safety;

- Likely to affect the learning environment in a detrimental way to themselves or other members of the learning community;
- Harmful;

then in these circumstances, he/she can require the student to:

- Produce, reveal, surrender the item;
- Surrender device on which the item is stored;
- Produce, surrender the harmful item.

If the item or device is surrendered the school may retain and/or dispose of the item or retain the device on which the item is stored. The school must store any such item/device appropriately and then return the item or device to the student or lawful owner or pass to another person or agency.

The key point is **reasonableness** of the school's action. Staff should not act on a whim or with undue haste and when forming a belief that a situation exists, they are to rely on sound evidence.

Key Terms

1. **Item**
Any physical object and/or information stored in digital form.
2. **Endangering Safety**
This depends on circumstances. In the circumstances is the item likely to endanger safety?
3. **A Detrimental Effect on the Learning Environment**
Does situation have a negative or disruptive affect on learning or general discipline?
4. **Harmful**
The item poses an **immediate** threat to the physical or emotional safety of any person.

Search

The school can search its own property at any time and by any method.

A teacher or Authorised Staff Member is not compelled to execute this power of search. Normal school disciplinary procedures can be instigated at any time or point in the process instead of action taken under the Search, Surrender and Retention policy.

If a search is undertaken no force may be used to search a student. If the student refuses to acquiesce to the search then normal school disciplinary processes can be instigated in order to protect all members of staff and unless impractical, two (2) staff members must be present for any search and should, unless impractical, be of the same sex as the person being searched. A written record of the conversation should be made at all times. Staff must always bear in mind the basic human rights of the person being searched and consider cultural differences.

A teacher or authorised staff member may require a student to remove outer clothing, head coverings, gloves, footwear or socks for the purposes of the search. A student

may also be required to hand over a bag or container in their possession. Clothing must not be searched while the student is wearing it nor can a student be subjected to a 'pat down' type search. A student cannot be required to strip to their underclothing. Cultural and religious backgrounds should be considered when requiring a student to remove clothing items.

A staff member may not have a dog with him or her for the purposes of searching a student's property. A search dog can be used to search school grounds and property.

The Board must have a written record of all searches. After a search and as soon as practicable the staff member or authorised staff member who conducted the search, must furnish a written report (see Appendix 1).

The reason for seeking confiscation of an item may not be as obvious to a student as it is to a staff member. It is good practice to explain the reasons. An explanation may also help if a student is not willing to follow instruction and hand the item over. Fear causes people to do irrational things. Time taken to explain to the student the situation may work to defuse the fear and resolve the issue.

In situations where the power of search is enacted the parent or guardian of the child searched must be advised of the situation in writing as soon as practical (ie. the Appendices 1 and 2)

Retention

When acting under these rules, the following has to be considered;

- The health and safety of people
- The apparent value of any device or item retained
- The person believed to be entitled to the possession of the item or device retained

Reasonable care must be taken of the item. A teacher or authorised staff member may:

- Keep the item or device in his or her possession; or
- Give the item or device to another or to another authorised staff member; or
- Arrange for the item or device to be placed in secure storage.

It is good practice to dispose of the item as soon as practicable either by:

- Returning the item or device to the student or owner at an appropriate time;
- Returning the item or device to a parent or guardian;
- Handing the item or device over to an appropriate agency (Police etc);
- Destroying the item if appropriate, e.g. deleting an offending message or picture.

Items not returned or disposed of can be securely stored in an area which cannot be accessed without authority. There must be a **written record** of every item or device retained under this policy (refer Appendix 2).

The school is not to retain possession of any illicit drug. Any such drug retained by way of a search under this policy will be handed over to the Police as soon as practicable.

In the case of weapons staff must consider the nature and use or potential use of the item before alerting Police.

The 'Deep Breath' consideration

It is likely that most situations can be concluded through clear and positive communication. Where there is a refusal to produce, reveal or surrender an item staff will need to consider what options are available to them. There are two basic choices;

- Initiate a search or
- **Apply the school's usual disciplinary or behaviour management practices.**

It is ***important to slow down*** (unless circumstances demand immediate action) and consider the following points giving an explanation to the student/s involved;

- What is being looked for
- Why is it believed there is an immediate threat to safety and
- Why staff believe the item will be found

Some students may produce the item at this point. Unless it is an emergency situation there is always time to weigh up the situation and seek advice from other staff or professional advisers.

Remember, safety of all people (including the searcher and those being searched) should always be the foremost consideration.

APPROVED BoT

Principal

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