



## 6.19 Student Search and Seizure Privacy

**DRAFT 1**

Effective Date:
-----------------

Authorized By: Utah State Board of Education
--

### 1. Background and Purpose

- 1.1. This policy establishes standards and procedures to protect individual student rights and privacy while balancing the responsibility of school officials for the safety and protection of students and adults on school property, in school transportation under USDB authority, in USDB residential facilities, and at school-sponsored events.
- 1.2. This policy is adopted and enforced in alignment with Utah Administrative Rule R277-615 (Standards and Procedures for Student Searches) and applicable Utah statutes governing school discipline, reporting, and confiscation/disposal of electronic cigarette products.
- 1.3. USDB recognizes that student searches can be disruptive and intrusive. Searches will be conducted only when justified and will be carried out in a manner that is respectful, trauma-informed, age-appropriate, and as minimally intrusive as reasonably possible under the circumstances.

### 2. Definitions

- 2.1. “Controlled substance” has the same meaning as provided in Utah Code 58-37-2.
- 2.2. “Electronic cigarette,” “electronic cigarette product,” and “electronic cigarette substance” have the same meanings as provided in Utah Code 76-10-101.
- 2.3. “Law enforcement authorities” means individuals who have received police officer training and are acting in that capacity.

- 2.4. “Weapon” means any item capable of causing death or serious bodily injury or a facsimile or representation of the item.
- 2.5. “Reasonable suspicion” means a particularized and objective basis, supported by specific articulable facts, for suspecting a person of violating law or USDB policy, and for believing that the proposed search will produce evidence of that violation.
- 2.6. “Student effects” includes, but is not limited to, backpacks, purses, wallets, clothing, coats, lockers/assigned storage, school-issued devices, personal devices brought to campus, and student vehicles on USDB property or used in a school-sponsored activity (when applicable).

### **3. Scope and Applicability**

- 3.1. This policy applies to searches conducted by USDB school officials of students and/or student effects when students are:
  - 3.1.1. on USDB property or in USDB-controlled facilities;
  - 3.1.2. under USDB supervision in transportation provided/authorized by USDB;
  - 3.1.3. in USDB residential facilities/programming; or
  - 3.1.4. at school-sponsored events, including off-campus events.
- 3.2. This policy covers searches related to suspected possession/use/distribution of controlled substances, weapons, and electronic cigarette products, as well as other items that violate law or USDB policy, where a search is reasonably necessary to protect safety or enforce school rules.

### **4. Student Search and Seizure Standard**

- 4.1. General standard. Searches by school officials must be reasonable under all the circumstances.
- 4.2. Two-part test.
  - 4.2.1. Justified at inception: A search must begin only when the school official has reasonable suspicion (or valid consent under Section 9) that the search will yield evidence of a violation of law or USDB policy.
  - 4.2.2. Reasonable in scope: The method and extent of the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the student’s age, sex,

disability/communication needs, and the nature of the suspected infraction.

- 4.3. Least intrusive means first. Where practicable and consistent with safety, school officials shall use the least intrusive method likely to confirm or dispel the suspicion (e.g., request voluntary production of an item, then a bag search, then outer clothing/pockets, before any pat-down).

## **5. Roles and Search Administration Safeguards**

- 5.1. Appropriate school official. Searches shall be conducted by the most appropriate school official available, taking into account the circumstances and the level of intrusiveness. More intrusive searches shall be conducted by an administrator or a designated trained staff member.
- 5.2. Same-gender expectation. When searching a student's person, it is preferred that the search be conducted by a staff member of the same gender as the student, when reasonably practicable, and with sensitivity to the student's needs and dignity.
- 5.3. Witness/adult third party. Wherever possible, an adult third party shall be present for searches of a student's person or possessions, to protect the student and the staff member(s).
- 5.4. Privacy of setting. Searches shall be conducted out of view of other students and unnecessary staff, in a private location whenever feasible.
- 5.5. Accessibility and communication. USDB will provide communication access during searches as needed (e.g., qualified interpreting support; accessible formats; clear, direct communication adapted to the student), including explaining what is being requested, that consent may be refused (if consent is the basis), and what will happen next.

## **6. Searches of Places and Property**

- 6.1. School-owned property and limited expectation of privacy. Students have a limited expectation of privacy in school-owned property assigned for student use (e.g., lockers, desks, storage areas, and other school-controlled spaces).
- 6.2. Inspection vs targeted search.

- 6.2.1. USDB may conduct periodic inspections of school-owned property for maintenance, cleanliness, safety, or vandalism prevention.
- 6.2.2. If an inspection turns into a targeted search for contraband or evidence tied to a specific student, staff will follow the reasonable suspicion standard, unless another lawful basis applies.
- 6.3. School-issued devices and accounts. Consistent with Policy 3.5 Student Device and Network Acceptable Use, USDB retains the right to collect and inspect school-issued devices where reasonably necessary for safety, security, or policy enforcement. Digital-content searches must still be limited in scope to what the suspicion supports.
- 6.4. Student vehicles (when applicable). Vehicles parked on USDB property or used in school-sponsored activities may be searched based on reasonable suspicion.
- 6.5. Residential facilities/program spaces. Because residential rooms and housing units are student living spaces, USDB will apply heightened privacy safeguards:
  - 6.5.1. Routine entry for health/safety or maintenance will follow residential program rules and will be limited to the purpose of the entry.
  - 6.5.2. Targeted searches for contraband or evidence in residential living areas require an administrator's approval (unless exigent safety circumstances exist) and must be supported by reasonable suspicion and limited in scope.

## **7. Searches of Students and Student Effects**

- 7.1. Requests for voluntary production. When appropriate and safe, a school official may ask a student to produce or surrender an item (e.g., "Please empty your pockets," "Please hand me the vape device"). If the student refuses, the official will evaluate whether reasonable suspicion exists to proceed with a search under this policy.
- 7.2. Search for personal effects. With reasonable suspicion, school officials may search student effects such as backpacks, purses, bags, coats, and similar items.

- 7.3. Outer clothing, shoes, and pockets. With reasonable suspicion and when reasonably related to the suspected violation, school officials may require removal of outerwear (e.g., coat/jacket/hat/shoes) and may search pockets.
- 7.4. Pat-down search (more intrusive).
  - 7.4.1. Pat-down searches are permitted only when the school official has reasonable suspicion that the student has a weapon or other dangerous item that poses an immediate safety concern, or when the suspected contraband is reasonably believed to be located on the student's person and less intrusive means are not sufficient.
  - 7.4.2. Pat-downs must be performed by trained personnel, kept to a minimum, and documented.
- 7.5. Highly intrusive searches and strip searches.
  - 7.5.1. Searches reaching under clothing or involving underwear are highly intrusive and carry heightened constitutional risk.
  - 7.5.2. USDB staff will not conduct strip searches. If a search of that intrusiveness is believed necessary due to an immediate and credible safety threat (e.g., a suspected weapon hidden under clothing), USDB will contact law enforcement, follow applicable protocols, and notify USDB administration immediately.

## **8. Contraband, Seizure, and Disposal**

- 8.1. Confiscation. Items that are illegal or prohibited by USDB policy may be confiscated.
- 8.2. Evidence, security, and chain of custody. Seized items should be labeled/tagged and stored securely. Documentation should note what was seized, by whom, when, where, and the disposition (returned, stored, destroyed, or released to law enforcement).
- 8.3. Electronic cigarette product disposal/release.
  - 8.3.1. USDB will follow Utah Code requirements to prohibit possession/use, confiscate/surrender electronic cigarette products, and ensure that electronic cigarette products are disposed of or destroyed by the administrator or designee.
  - 8.3.2. USDB may release a confiscated electronic cigarette product to local law enforcement only under circumstances permitted

by Utah law (e.g., reasonable suspicion that it contains an illegal substance and a law enforcement request as part of an investigation/action).

- 8.3.3. Confiscated electronic cigarette waste must be handled and disposed of consistently with hazardous-waste requirements and state guidance (nicotine and lithium-ion batteries).

## **9. Student Consent Searches**

- 9.1. Consent is an alternative lawful basis. A student may consent to a search, but consent must be voluntary (free of coercion) and age and communication-appropriate.
- 9.2. Students may refuse consent. If a student refuses consent, staff will not treat refusal alone as proof of wrongdoing; staff will determine whether independent reasonable suspicion exists to proceed.
- 9.3. Documenting consent. When practicable, staff will document that consent was requested and whether it was granted or refused (including the communication accommodations used to ensure understanding).

## **10. Law Enforcement Involvement**

- 10.1. School-led searches. When USDB school officials initiate and conduct searches for school safety/discipline purposes, the school's "reasonableness" standard applies.
- 10.2. Police-led searches. When outside law enforcement initiates or directs a search primarily for law-enforcement investigative purposes, the applicable constitutional criminal-procedure standards may apply (often requiring probable cause and, in many contexts, a warrant). USDB staff will defer to law enforcement for the legal standard and will coordinate through administration.
- 10.3. Interviews and student rights. When law enforcement is involved in questioning, the student's "custody" analysis is fact-specific; age is relevant under *J.D.B. v. North Carolina*. Staff should involve administration promptly when law enforcement seeks to question a student in connection with a search/seizure incident.
  - 10.3.1. When law enforcement questions a deaf or hard-of-hearing student, law enforcement is responsible for providing ASL interpreters to ensure effective communication.

## **11. Documentation, Notification, and Training**

- 11.1. Written record. For any search beyond a routine inspection, staff will complete a written record including:
  - 11.1.1. the specific articulable facts supporting reasonable suspicion (or the consent basis);
  - 11.1.2. who conducted the search and who witnessed it;
  - 11.1.3. where and when it occurred;
  - 11.1.4. what was searched;
  - 11.1.5. what was found (if anything); and
  - 11.1.6. what actions were taken with seized items.
- 11.2. Parent/guardian notification. Parents/guardians should be notified as soon as reasonably practicable after a search or seizure event, consistent with applicable reporting requirements and safety needs.
- 11.3. Policy availability. USDB will make this policy available electronically and in printed form to parents and students upon enrollment.
- 11.4. Training. USDB will provide adequate training to appropriate employee groups to ensure the fair, consistent, and lawful implementation of student searches, including training on privacy, accessibility/communication, and documentation expectations.