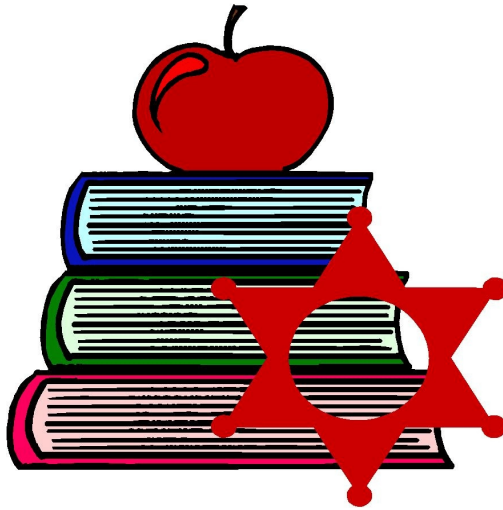


MISSISSIPPI YOUTH VIOLENCE
AND
SCHOOL SAFETY INITIATIVE



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GENERAL SEARCH & INSPECTION PROGRAMS

GUIDELINES AND PROCEDURES FOR IMPLEMENTATION

General searches and inspection programs are *planned* events that are designed to respond to the incidents, facts and circumstances documented and recognized by school officials. The purpose of these general searches and inspections is to directly address serious security and discipline problems and discourage students from bringing or keeping dangerous weapons, drugs, alcohol and other prohibited items on school grounds, not to apprehend or prosecute students who violate the law and/or school rules. General search and inspection programs are also referred to as “suspicionless searches.” These are general searches of the school grounds, parking lots, lockers, public areas, or unattended personal items. These are *not* searches of individual persons and their immediate possessions which are clarified in the **Individual Search and Seizure Programs** section.



Even though these general search and inspection programs are labeled “suspicionless,” there must be a documented problem before implementation of such programs.

FACTS JUSTIFYING GENERAL SEARCH POLICIES

It is imperative that as many facts and circumstances demonstrating the nature and scope of the problem be documented for each separate school building and/or grade level that will be subject to any suspicionless search policy.

Furthermore, these facts and circumstances should be incorporated into written findings by the school board, superintendent and/or principal *before* any search policy is implemented.

The documented facts and circumstances about *local* issues that need to be prepared for evaluation *prior* to implementation of any general search and inspection policy should include but are not limited to:

- empirical studies/surveys of student drug and alcohol use and attitudes;
- youth court statistics;
- recent incidents where drugs/alcohol were found on school property;
- increase in the number of incidents of violence, vandalism, or weapons-related offenses;
- increase in the incidence of disciplinary problems and disruptions;
- increase in number of students suspended/expelled for disciplinary infractions involving drugs, alcohol, or weapons;
- information of disciplinary infraction involving drugs, alcohol, or weapons received

- from students;
- information of disciplinary infractions involving drugs, alcohol, or weapons received from students;
- information of disciplinary infractions involving drugs, alcohol, or weapons received from parents;
- information of disciplinary infractions involving drugs, alcohol, or weapons received from teachers and staff members;
- observation of suspicious activity by students, such as passing small packages amongst themselves in hallways;
- increase in the number of students referred to or participating in substance abuse programs;
- increase in the number of students found to be under the influence of an intoxicating substance;
- observation of students in possession of large amounts of money; and,
- increase in use of pay phones, cell phones, or paging devices by students.

LOCKER INSPECTION PROGRAM



The Locker Inspection Program includes lockers, desks, or similar storage facilities provided by the school for use by students. It is normal for students to have reasonable expectations of privacy regarding their assigned lockers.

School officials should:

1. Make findings concerning the scope and nature of the security and discipline problems to be addressed by the locker inspection program. *See Facts Justifying General Search Policies, page 1)*
2. Develop the locker inspection program in a written plan that clearly outlines the procedures and consequences. The written plan must provide the following:
 - That all lockers in the school will be opened and searched at roughly the same time;
 - Assurances that inspections will be conducted in a manner that minimizes the degree of intrusiveness;
 - That personal possessions will not be damaged and /or protected during the inspection; and
 - That school officials conducting the inspections would not read personal notes or entries in diaries or journals.

- That any evidence of a crime discovered during a locker inspection must be turned over to the appropriate law enforcement authorities. [Miss. Code § 37-11-29] See also Mississippi Attorney General’s Opinion 97-0739 as found in the appendix.
3. Have the plan pre-approved or adopted by the local board of education, school district superintendent and/or principal.
 4. Advise students, parents and members of the school community through public notice and/or inclusion in the official school policy manual of the nature and purpose of the locker inspection program. Make sure students are aware and understand that lockers will be searched by including information in the student handbook and/or school newspaper.
 5. Ensure that school personnel conducting the inspections received training on how to recognize drugs, drug paraphernalia, weapons, and other designated contraband. All persons conducting inspections should be thoroughly familiar with the following:
 - Procedures to be followed in the event of the discovery of a firearm or other contraband.
 - Requirements of state law and regulations that evidence of a crime must be turned over to law enforcement authorities. [Miss Code Ann. § 37-11-29] See also Mississippi Attorney General’s Opinion 97-0739 as found in the appendix.

VEHICLE INSPECTION PROGRAM

School officials should:

1. Make findings concerning the scope and nature of the security and discipline problems to be addressed by the vehicle inspection program. (See ***Facts Justifying General Search Policies. p. 1.***)



2. Develop the vehicle inspection program in a written plan that clearly outlines the procedures and consequences. The written plan must provide the following:
 - That all vehicles parked on school property will be opened and searched at roughly the same time;
 - Assurances that inspections will be conducted in a manner that minimizes the degree of intrusiveness.

3. Have the plan pre-approved or adopted by the local board of education, school district superintendent and/or principal.
4. Advise students, parents and members of the school community through public notice and/or inclusion in the official school policy manual of the following:
 - The nature and purpose of the vehicle inspection program.
 - That any evidence of a crime discovered during a vehicle inspection must be turned over to the appropriate law enforcement authorities. [*Miss. Code Ann. § 37-11-29*] See also Mississippi Attorney General’s Opinion 96-0739 as found in the appendix.
5. Ensure that school personnel conducting the inspections receive training on how to recognize drugs, drug paraphernalia, weapons, and other designated contraband. All persons conducting inspections should be thoroughly familiar with the following:
 - Procedures to be followed in the event of the discovery of a firearm or other contraband.
 - Requirements of state law and regulations that evidence of a crime must be turned over to law enforcement authorities. [*Miss. Code Ann. § 37-11-29*] See also Mississippi Attorney General’s Opinion 97-0739 as found in the appendix.

SCENT DETECTION CANINE PROGRAM

GUIDELINES FOR IMPLEMENTATION

The use of scent canines is a dramatic tactic designed to convey to students in the strongest possible terms that neither school authorities nor law enforcement agencies will tolerate illicit drugs or other scent detectable contraband on school property. These operations, however, require careful planning, notification and coordination with law enforcement authorities.

Additionally, in the progression from general searches to searches involving law enforcement there are more specific requirements for documentation and procedural safeguards. This not only protects students’ constitutional and statutory rights, but also those of the school officials.



The law enforcement scent canines can sniff the exterior surfaces of lockers, vehicles, and personal belongings that have been removed from the individual in a general search. If the dog sniffs a person directly, this constitutes an individual search which must be handled under the individual search guidelines covered in the Individual Search and Seizure Programs section. Locker, vehicle, purse,

backpack, or pocket interiors should not be searched by school officials.

After a dog alerts, further search and seizure with regards to that property or individual must be handled by the appropriate law enforcement agency in accordance with their policies and procedures. School officials should cooperate and follow the directions of the law enforcement officers.

PROCEDURES FOR IMPLEMENTATION

School officials should:

1. Carefully document their findings to demonstrate why it is necessary and appropriate to use scent detection canines before implementation of a Scent Detection Canine Program.
2. The findings should spell out the nature and scope of the problem that exists in the school and how the proposed use of scent detection canines will help to address the problem. (**See *Facts Justifying General Search Policies*, p.1.**)
3. Solicit input from parents, teachers, and other members of the school community before conducting a canine operation (e.g., host a parent input night to discuss the proposed policy). These findings should be incorporated into the recommendation prior to initiation of such a policy.
4. Develop the scent detection canine program in a written plan that clearly outlines the procedures and consequences. The written plan must provide the following:
 - A clear description of specific areas in which the canine will work
 - That a school official have access to a master list of all locker assignments and a roster of enrolled students, as well as a list of parents or legal guardians so that they could be contacted promptly in the event that a dog alerts to a locker assigned to their child.
 - That at all times while canines are present on school grounds, students would be restricted to their classrooms or to locations that would not be swept.
 - Include provisions to ensure that scent detection dogs so not come into direct contact with students.
5. The operational plan should provide that students not be present during an actual sweep or otherwise be able to know whether a dog has alerted to a particular locker.
6. Have the plan approved or adopted by the local board of education, school district superintendent and/or principal. (*Note:* The board of education should not be advised of the exact date and time when inspections will occur; the number of people aware of the exact

time of these planned operations should be kept to an absolute minimum.)

7. Advise students, parents and members of the school community through public notice and/or inclusion in the official school policy manual of the following:
 - The nature and purpose of the scent detection canine program.
 - The intention of school officials to invite scent detection canines to conduct suspicionless sweep inspections on school property.
 - All places or items that might be subject to such canine inspection (e.g., lockers, desks, handbags/purses, backpacks, outer clothing removed from students, and vehicles brought on school property).
 - That students may be ordered to vacate a room and to leave behind their outer clothing or other possessions so that they could be examined by scent dogs.

The canine operation should be conducted in accordance with the policies and procedures of the appropriate law enforcement agency.

8. Make certain that all school personnel involved in the execution of the operation keep the timing of the specific operation *strictly confidential* up to the moment that the canine units would come on to school grounds and begin to conduct their sweep.
9. Be prepared to secure and stand guard over any locker or property to which a dog alerts.
10. Consider a public awareness follow-up seminar to discuss the results of the operation. Additionally, if contraband items are found, those results should be documented as a factual basis for further or more specific inspections and searches.

RANDOM DRUG TESTING PROGRAM

GUIDELINES FOR IMPLEMENTATION

A random drug testing program can only be applied to students participating in extracurricular activities. To initiate a policy that will withstand legal scrutiny, school officials must carefully and specifically design a random drug testing program that addresses specific problems caused by use or misuse of drugs. Critical components include but are not limited to:

- A clearly written substance abuse policy
- Supervisor training
- Student, Parent and Staff education
- Provisions for assisting affected families
- Reliable testing procedures



Additionally, reliable testing procedures must address 1) the collection site, 2) the collector, 3) the collection device, 4) type of specimen to be collected - hair, saliva, sweat, urine, 5) collection procedures, 6) location of initial screen, 7) quality control, and 8) reporting. Of critical consideration is the issue of confidentiality. Reliable resources for information include the Attorney General's Office, the Department of Mental Health's Alcohol and Drug Abuse Division, and the federal Substance Abuse and Mental Health Agency.

Further, the program must be designed to efficiently and directly address those concerns as exemplified in two reported cases of school districts that implemented random drug testing programs: Brooks v. East Chambers Consolidated Independent School District and Todd v. Rush County Schools, and Vernonia School District 47J v. Acton as found in the appendix.

In *Brooks* the random drug testing was found unconstitutional while in *Todd* the program was found constitutional. The proper guidelines should be followed to ensure that any random drug testing program follows the directives of *Todd* and avoids the constitutional infirmities of *Brooks*.

PROCEDURES FOR IMPLEMENTATION

Random drug testing programs are *planned* policies that are designed to respond to the incidents, facts and circumstances documented and recognized by school officials.

The Purpose of Random Drug Testing Is to Deter Drug Use and Not to Catch and Punish Users.

First and most importantly is that school officials may set up a random drug testing program *only* in response to evidence of student drug use affecting students' health or safety in school extracurricular activities.

School officials should:

1. Collect evidence that students are involved in substance abuse, i.e., surveys, school incident reports or published reports of accidents on or off school property involving students and drug abuse. **(See *Facts Justifying General Search Policies, P. 1.*)**
2. Collect documentation that drug abuse would adversely affect participants in particular extracurricular activities.
3. Develop the random drug testing program in a *written* plan that clearly outlines the procedures and consequences.
4. Have the plan approved or adopted by the local board of education, school district superintendent and/or principal. The plan should limit testing to students involved :
 - Extracurricular activities;
 - Activities that have specific documented health and safety concerns which would benefit from the random drug testing. These concerns must be clearly documented.
5. Limit distribution of individual test results to persons involved in treatment and recovery.
6. Advise students, parents and members of the school community through public notice and/or inclusion in the official school policy manual that:
 - Evidence of drug use discovered during random drug testing will not be used to punish students, but will deny them access to voluntary extracurricular activities that are privileges.



- If a test is positive, they will be permitted to explain the result by showing, for example, that the student is taking medication that would influence the result.
- If a test is positive, they will be given the name of agencies and/or facilities that might assist the student's recovery.
- If a test is positive, they may request a new test.
- If a test is positive, the student will be barred from participation in extracurricular activities until a negative test result is obtained.

7. Time the random testing to most effectively address the concerns of the extracurricular activity. For example, test athletes before or during the season for that sport.

INDIVIDUAL SEARCH & SEIZURE PROGRAMS

GUIDELINES FOR IMPLEMENTATION



To initiate a search that will withstand legal scrutiny, school officials must have “reasonable grounds” to believe that a law or school rule has been or is being broken. Those grounds are best exemplified by reading the Mississippi Supreme Court’s ruling in *S. C. v. State* as found in the appendix.

PROCEDURE FOR IMPLEMENTATION

1. The school official should document what offense(s)/school rule infraction(s), law or contraband is suspected; the name(s) of the student(s) suspected; and where or what is to be searched or opened. In addition, the school official must consider and document the answers to the following questions when requesting an individual search:

- Did the student deny owning the object to be searched? (Explain.) (If so, the student has no legitimate expectation of privacy in the object and cannot later complain that the search was improper.)
- Did the student abandon the object to be searched (i.e., dropped it while running from a school official or while fleeing the scene of the suspected offense)? If so, the student has no legitimate expectation of privacy in that object and cannot later complain that the search was improper.
- Will the search involve more than one student? If so, were there reasonable grounds to believe that each individual to be searched would be in possession of the item(s) being sought? (*Note:* In some situations, the number of suspects may be so small that the entire group may be searched. Courts will consider (1) the size of the group, (2) the strength of the grounds to believe that one of them is the person who committed the offense, (3) the seriousness of the offense, and (4) whether the sought-after evidence could harm others.)
- What steps were taken before requesting an individual search of a group of students to narrow the field of suspects? (Explain.)

3. The least intrusive means must be employed so a search will be no broader in scope nor longer in duration than is reasonably necessary to confirm or dispel the suspicion.

FACTORS JUSTIFYING A SEARCH

- Observed infraction/offense in progress.
- Observed item believed to be stolen.
- Observed weapon or portion thereof.
- Observed contraband.
- Smell of burning tobacco or marijuana.
- Student appears to be under influence of alcohol/drugs.
- Student admits violation.
- Student appears to be lying.
- Student fits description of suspect of recently-reported offense.
- Student(s) flee from vicinity of recent offense.
- Student(s) flee upon approach of school official.
- Information provided by others.
- Threatening words or behavior.
- Incriminating evidence was found during a lawful consent search.
- Incriminating evidence was discovered by a teacher/administrator.
- Incriminating evidence was turned over by another student.
- Other suspicious conduct.

OTHER RELEVANT CIRCUMSTANTIAL FACTORS

- Reputation of student to be searched.
- Student to be searched has history of previous similar violations.
- Student was previously disciplined for a similar offense/infraction.
- Student was already subject of investigation for similar offense/infraction.
- Report of stolen item.
- Student seen leaving area where infractions are often committed (i.e., location where students congregate to smoke).
- Student became nervous or excited when approached.
- Student refused to make eye contact with you.
- Student made a suspicious or “furtive” movement. (Must describe the exact conduct and why it was suspicious)
- Did the student deny making the suspicious movement you observed?
- Student is part of a group known to have committed similar offenses/infractions.

NOTE: Lying is *always* relevant in deciding whether there are reasonable grounds to believe that the student committed an offense/infraction.

APPENDIX

STATUTES

- § 37-11-18 Expulsion of student possessing controlled substance or weapon or committing violent act on school property.
- § 37-11-19 Suspension or expulsion of student damaging school property; liability of parent or custodian.
- § 37-11-29 Reporting of unlawful activity or violent act on educational property or during school related activity; authority of law enforcement office disposition of charges against student; liability of school personnel participating in reporting.
- § 37-11-31 Contents of report pursuant to § 37-11-29.
- § 37-11-53 School district discipline plans; appearance by parents, guardians or custodians at discipline conferences; recovery from parents for damage or destruction of school property.
- § 37-11-55 Code of student conduct.
- § 37-11-57 Immunity of school personnel from liability for carrying out action in enforcing rules regarding control, discipline, suspension and expulsion of students.
- § 97-32-9 Juvenile purchase, possession and consumption of tobacco.
- § 97-37-1 Deadly weapons; carrying while concealed; use or attempt to use; penalties.
- § 97-37-17 Possession of weapons by students; aiding or encouraging.

ATTORNEY GENERAL'S OPINIONS

AG Op. 97-0739 Reports to Educational Institutes of Unlawful Acts

CASE LAW

In the Interest of S.C. v. State, 583 So.2d 188 (Miss. 1991)
Brooks v. East Chambers School Dist., 730 F. Supp 759 (S.D. Tex 1989)
Todd v. Rush County Schools, 133 F.3d 984 (7th Cir. 1998)
Vernonia School District 47J v. Acton, 515 v.s. 646 (1995)



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