

### 1.16 Surrender, Retention and Search Policy (read in conjunction with Policy 1.1 – Drugs and Alcohol Policy)

#### Rationale

Schools are required to provide a safe physical and emotional environment for students and staff.

School communities and the public expect schools to be free from many things including theft, drugs, weapons, alcohol and cyber bullying.

To achieve this, and ensure that XXX is meeting its health and safety obligations, this policy sets out XXX powers to:

- require students and staff to produce and surrender items;
- search students in certain circumstances

Although this policy applies generally to the surrender and retention of, and searching for, items that are harmful, likely to endanger safety or are likely to detrimentally affect the learning environment, XXX has a particular concern about addressing the problem of the use and abuse of drugs, alcohol and tobacco by students, which can be found outlined in Policy 1.1.

Parents, staff and students need to be aware that that:

- students must comply with all school rules and policies and all instructions given by school staff;
- students cannot expect unfettered freedom in the school environment;
- XXX has a no tolerance policy in regard to the use, possession and supply of drugs, alcohol and tobacco;
- students cannot help themselves to other people's property

It is intended that this policy will apply to all students and staff while on XXX grounds, while taking part in any field trip or co-curricular activity organised by XXX, while representing XXX in any activity, or in any circumstance in which the student could reasonably be identified as a student of XXX, including at social events organised by XXX and outside of school hours. For the sake of clarity, this includes any representations of students or staff on the internet.

Having a safe environment for students and staff is paramount and is the overriding consideration for XXX and its staff members when applying this policy.

#### Requiring Students to Produce and Surrender Items

##### When can students be required by staff members to produce and surrender an item?

A staff member (defined as a teacher or other staff member that has been authorised by XXX) may require a student to produce, reveal and/or surrender items if they have reasonable grounds to believe that the student has hidden, or has in clear view on or about their person, or in any bag or other container under the student's control, an item that is:

1. likely to **endanger the safety of any person**;
  - This may include, but is not limited to, bullying texts, drugs, a compass or craft knife, metal objects, alcohol and spray cans.
2. likely to **detrimentally affect the learning environment**;
  - This is a very broad category that may include any item that disrupts the flow of teaching and learning. Examples may include items that are being used by students to brag or show off, a mobile phone if the noises from that phone cause distraction, a ruler or pen that is being tapped to distract others in the class and sports or musical equipment that is being used to annoy other students.

### 3. Harmful.

- This is the most serious category, and can result in the staff member initiating a search for the item if it is not surrendered by the student. A harmful item is an item that a staff member has reasonable grounds to believe poses an immediate threat to the physical or emotional safety of any person. This may include, but is not limited to text messages, drugs, weapons, gang colours or insignia, pornography and sexually explicit photographs of a student.

### 4. Stolen.

- Items that belong to another person or XXX, removed without permission.

## Searches of Clothing, Bags and Other Containers

Staff members can initiate a search of a student's clothing, bags or other containers if the staff member:

- has reasonable grounds to believe that a student has on or about their person, or in any bag or other container under the student's control, a **harmful** or stolen item (see above for information on what "harmful" means); and
- has required the student to produce and surrender the harmful item and the student has refused.

A search is an examination of a person or property for something that is hidden. A search may include a student being required to remove items of clothing or to empty out his or her pockets. It can also involve a student's 'correspondence' including written and electronic material (for example, in a diary, on a mobile phone or on a laptop).

Searches will always be carried out in a manner that gives the student the greatest degree of privacy and dignity consistent with the purpose of the search.

During a search, the staff member may require a student to:

- remove any outer clothing (such as a coat, jacket, jumper or cardigan);
  - but note that a student will not be required to remove any clothing that will leave them with only underclothing on;
- remove any head covering, gloves, footwear or socks;
  - but note that socks do not include tights or stockings;
- surrender a bag or other container.

Unless it is impracticable, the search:

- will be carried out by a staff member who is of the same sex as the student, and in the presence of the student and another staff member who is of the same sex as the student; and
- will not be conducted in the view of any person other than the person carrying out the search, the student and another staff member, unless the staff member has reasonable grounds to believe that the student has a harmful item.

Additionally, when conducting a search, staff members will:

- not search any student's person;
- not use physical force against a student (other than in an emergency situation where staff members are acting to defend themselves or others against immediate harm); and
- be alert to the relevant sensitivities when searching students from different nationalities.

The Trust also notes that:

- School property can be searched at any time, for any reason and in any way (including by using contractors and trained dogs). A school's property includes buildings, grounds and vehicles — as well as any locker, desk or other receptacle provided to students for storage purposes;
- if during the search for a harmful or stolen item, the staff member finds an item that is likely to detrimentally affect the learning environment or endanger safety, then the staff member may retain it and implement the procedures set out under this policy;
- the Trust will keep a record of the search; and
- the staff members who have the powers set out in this policy are the members of the Pastoral Care Team or a Senior Manager.

Once the staff member has obtained clothing, footwear or any bag or other container from a student, then the staff member may search it.

Whether an item is found or not, the clothing or footwear or bag or other belongings will be returned to the student immediately after the search. A photograph/s may be taken of the item and where it was found, as evidence of the nature of the search.

### **Retention, Storage and / or Disposal of Items Taken**

If an item is surrendered by a student, or retained as a result of a search, XXX will retain the item for a reasonable period of time and store it in an appropriate manner.

When deciding whether to return an item or device to a student or to pass it to another person or agency, XXX will consider:

- the health and safety of people;
- the apparent value of the item or device concerned; and
- the person believed to be entitled to the possession of the item or device concerned.

In some situations it could be appropriate for the school to pass the item or device to another person (such as a parent or caregiver or the person believed to be entitled to possession of it), or to an agency. Agencies to which items may be passed include the Police, the Department of Internal Affairs (for certain types of pornography, for example), and the New Zealand Customs Service (for certain types of contraband, for example).

However, in the majority of situations, the item will be made available to the student as soon as practicable (i.e. it will be returned on the same day or retained in the short term only).

An item may be disposed of if a teacher or an authorised staff member considers it appropriate. Disposal may include destruction, if appropriate. However:

- an electronic device will not be disposed of (although in some circumstances, it may be possible to dispose of an electronic item (such as a photo or text message) by deleting it); and
- items retained will not be sold by staff members or XXX.

### **Disciplinary Outcomes**

The student may face disciplinary, or other consequences, if they:

- refuse to show or surrender an item that XXX believes is stolen or is likely to endanger safety or detrimentally affect the learning environment;
- are found with an item that is stolen or likely to endanger safety or detrimentally affect the learning environment;
- refuse to show or surrender an item that XXX believes is harmful;
- are found with an item that is harmful;
- obstruct, or refuse to comply with, a search initiated by a staff member for a harmful item.

The school's usual disciplinary or behaviour management practices may apply. This may include (but is not limited to) a Gating, Stand-Down, Suspension or Expulsion.

Other consequences may include:

- retention of the item;
- Police involvement; and
- Parent/Caregiver involvement.

Schools can always act on good information. Staff members do not need to have recovered an item or catch a student red-handed in order to decide what to do. XXX employees are entitled to rely on other evidence (circumstantial or witness statements) to take disciplinary action notwithstanding the student's denial and an absence of a search to recover the item. If a student is found with an item that is stolen, or illegal, the Trust may involve the Police.

If parents have any questions about this policy they should contact the Head/Principal of the relevant school.

**This Policy will be reviewed by the Senior Leadership Team**

**Approved by XXX:** March 2015

**Next review:** March 2017