

---

**SUSPICION OF STUDENT CRIMINAL OR OTHER ILLEGAL STUDENT ACTIVITY  
AND  
LAW ENFORCEMENT OFFICERS/SCHOOL DEPARTMENT RELATIONSHIP**

---

This regulation is intended to provide guideposts to staff when confronted with suspicions of criminal or other illegal activity by students. Such suspicions may be aroused by what the staff sees or hears while at school. These situations will be designated investigations “initiated by staff”. In addition, law enforcement officers, including the Penobscot County Sheriff’s Department and the Bangor Police Department, and Juvenile Case Workers (who are employees of the Office of Probation and Parole of the Department of Corrections) may be interested in obtaining information from, or taking into custody, students while they are at school for activities that occurred outside the school building. These situations will be entitled investigations “initiated by law enforcement officers”.

Either situation raises questions under the Fourth Amendment to the U.S. Constitution, which provides protection to all persons, adult or juvenile, against (“unreasonable searches or seizures”). The fact that the activity may occur on school grounds does not insulate the activity from scrutiny under the Fourth Amendment. Further, the student’s Fifth Amendment privilege against self-incrimination (right to remain silent etc.) may come into play should the student be taken into custody; i.e. restrictions on the student’s freedom of movement.

In either situation, it is the goal of the School Department to protect the rights of students and parents consistent with the maintenance of a sound academic environment. Given the sensitive nature of these issues and the delicate balance that must be drawn between and among the various interests at stake, staff must contact the principal if there is any question in these areas. The principal should also consult with the Superintendent’s office, or legal counsel, for additional information.

**I. SCOPE OF CONSTITUTIONAL PROTECTION -- THE LAW**

A. The U.S. Supreme Court has recently ruled that the Fourth Amendment to the U.S. Constitution applies to searches conducted by school officials on school grounds.

**B. Searches:**

1. A search may be undertaken without the necessity of obtaining a search warrant.

2. Two grounds on which to justify search by school officials on school grounds:

a. Consent of the student; as long as such consent is voluntarily given

i. “voluntary” means a non-coercive or non-stressful environment; if there is any question as to whether consent to search is voluntary, do not search.



- ii. The scope of the search should only be as broad as the consent given (for example, consent to the search of a purse does not authorize search of the owner of the purse).
  - b. Staff member has a “reasonable grounds” for suspecting that a search will turn up evidence that the student has violated or is violating the law or rules of the school, and the scope of the search is rationally related to the circumstances which gave rise to the search (i.e. it cannot be unreasonably intrusive or the staff member cannot search in places where evidence of the violation of the law or school rule would not be located).
    - i. A reasonable suspicion may consist of furtive conduct, strikingly evasive conduct, a bulge in clothing, tips from reliable sources and being present while improper conduct takes place. In general, the question of whether there is a “reasonable suspicion” depends on the particular facts and circumstances of each case. If there are any questions, and provided immediate action to prevent danger to others is not present, legal counsel should be consulted.
3. Searches of more than one student -- random searches:
  - a. Although there are some courts that might permit the same under certain circumstances, random searches (e.g. searches of all students in a classroom or search of all student lockers) must not occur without prior notification to legal counsel.
4. Search by law enforcement officers including Juvenile Case Workers on school grounds.
  - a. Law enforcement officers are subject to a higher standard than that applicable to school staff in order to justify searches of students. There must be “probable cause” to believe that criminal activity had occurred or was occurring. Probable cause cannot be defined with any precision. For example, seeing a bulge in a student’s pocket would not establish probable cause but could show a “reasonable suspicion” of criminal activity.
- C. Questioning of Students - In *Miranda v. Arizona*, the U.S. Supreme Court decided that all persons taken into custody by law enforcement officers must give the suspect the so-called Miranda warnings including the right to remain silent and the right to counsel. It is unlikely that the requirement of giving Miranda warnings applies to school officials. Nevertheless, as a matter of policy, school staff who detain a student because they believe the student has committed a violation of school rules that may also be a violation of criminal law should inform the student of the student’s right to retain silent.

## II. INVESTIGATIONS CONDUCTED AT THE SCHOOL

### A. Initiated by Staff

---



1. **Who May Conduct:** Only principals and assistant principals, unless other staff members have a reasonable fear or danger of the student, other persons, or themselves.
2. **Scope of Authority:** Principals and assistant principals shall have the authority to conduct investigations and to question students pertaining to violations of school rules, whether or not the alleged conduct is a violation of criminal law. Such investigations shall be conducted in a manner which does not interfere with school activities. School staff members are not detectives to investigate possible criminal offenses. That is the responsibility of the State, County and Municipal law enforcement officers.
3. **Conducted by Law Enforcement Officers:**
  - a. The principal or assistant principal shall determine if it is necessary to contact law enforcement officers (the Youth Aid Division of the Bangor Police Department) to conduct an investigation of alleged criminal law violations which jeopardize the safety of school property or which interfere with the operation of the schools.
    - i. Ordinarily, possession of drugs would call for contacting law enforcement officers. A fight between two students ordinarily would not require such contact unless there is a danger of significant violence occurring on or off school grounds. If there are any questions, the Superintendent's office or legal counsel should be contacted.
  - b. The principal may request that law enforcement officers conduct an investigation and question students who are potentially witnesses of such alleged criminal behavior during school hours. A reasonable attempt shall be made to contact the student's parents, guardian or representative prior to questioning by law enforcement officers.
  - c. If the investigation has centered on any particular student suspected of such alleged criminal activity, the procedure for taking students into custody by the police set forth in Section III shall be followed to the extent that they do not interfere with reasonable law enforcement procedures.

**B. Initiated by Law Enforcement Officers:**

1. **Contact With Students During School Hours on School Grounds:** Although cooperation with law enforcement officers will be maintained, it should normally not be necessary for law enforcement officers to initiate and conduct an investigation and questioning of students during school hours on school grounds pertaining to criminal activities unrelated to the operation of the school. Only in demonstrated emergency situations, when law enforcement officers find it absolutely necessary, will they be voluntarily permitted to conduct such an investigation during school hours. These circumstances should ordinarily be



limited to those situations in which delay might result in danger to any person, flight from the jurisdiction of a person reasonably suspected of a crime, or destruction of evidence.

2. Approval of Principal or Assistant Principal: In all cases, the law enforcement officers must first contact the principal or assistant principal before seeking to speak with students. Such questions may be done only with the approval of the principal or assistant principal for the reasons set forth in II-B-1 and pursuant to Section II-C-2. The administrator shall document the circumstances of such investigations as soon as practicable.

C. Questioning and Searches of Students During Investigations Initiated by Staff:

1. Questioning Regarding Violations of School Rules: Where school rules have allegedly been violated, the principal or assistant principal may wish to detain the suspected rule violator or a potential witness.
  - a. The suspect student should be advised of the nature of the alleged conduct and of the evidence, if any, against the student. The student shall be informed of the right to remain silent, and that anything the student does say can be used against the student in a disciplinary proceeding by the School. Although it is an open question whether there is a legal duty of a school administrator to give such warnings, it is better practice to do so.
  - b. School officials should not engage in detailed questioning of students at random without reasonable cause in the hope of gathering information as to school misconduct. Probable witnesses should be told the nature of the alleged misconduct and the reason to believe that they are a witness. Such students should be given the opportunity to give their consent before answering questions of school officials.
2. Searches of Students
  - a. Mass Searches (e.g. all lockers or all students): Shall not be permitted unless Superintendent has specifically approved or there is an emergency situation.
  - b. Individual Students:
    1. If with consent of student, may search student or belongings. Student should be advised of reason for search and the right to withhold consent. If possible another school staff member should be present.
    2. May also search without consent, but only if reasonable grounds to suspect that student violated school rules (e.g. You see a fight and a student says that one of the participants has a knife or other weapon).
    3. Strip searches are not permitted.

### 3. Violations of Criminal Law

- a. It may come to the attention of the principal or assistant principal that an investigated activity may also be a violation of criminal law. In proceeding with the investigation, the principal/assistant principal can attempt to ascertain whether there is sufficient justification to believe that a criminal offense was committed that warrants contacting law enforcement officers.
- b. Where a suspected violation of criminal law has occurred on school grounds, involving the operation of the school, or during a school-sponsored activity, law enforcement officers (Youth Aid Division of Bangor Police Department) should be notified and their presence requested for the questioning of suspected students. Unless circumstances dictate otherwise, questioning of the student shall not begin or continue until the law enforcement officers arrive. Diligent attempts shall be made to contact a student's parents, guardian or representative who, unless an emergency exists, shall be given the opportunity to confer with the student and to be present with the student during such questioning. The principal or assistant principal shall document the contact or attempted contact with the student's parents, guardian or representative. In the absence of parent and student consent, a suspect student should not be questioned by law enforcement officers on school grounds. The law enforcement officers may wish to advise the student of the student's legal rights. If the parent and the student consent to the questioning, the investigation can continue. If the parent or student refuse consent to the questioning, the law enforcement officers will determine the course of action to be pursued.

### III. REMOVAL OF STUDENTS FROM SCHOOL BY LAW ENFORCEMENT OFFICERS

- A. Students may not be released to law enforcement authorities (whether State:-County or Municipal Police Department or Juvenile Case Workers) voluntarily by school officials unless the student has been placed under arrest or unless the parent, guardian or representative and the student agree to the release or unless it is a case of child abuse, as provided in Regulation KNAG. When students are removed from school for any reason by law enforcement authorities, every reasonable effort will be made to contact the student's parents, guardian or representative immediately and inform them of the whereabouts of the student and the grounds for removal. Such effort shall be documented. Whenever a student is removed from school without an arrest being made, or without acquiescence. of the parents, guardian or representative and the student, the principal shall immediately contact the Superintendent's office.
- B. The principal shall make reasonable efforts to persuade law enforcement officers not to make arrests or take students into custody on school premises. Whenever the need arises to make arrests or take students into custody on school premises, the principal should make reasonable efforts to persuade the law enforcement officers to utilize a non-uniformed officer in making the arrest.
- C. When an emergency exists, the school principal may summon law enforcement



officers to the school to take a student into custody.

- D. When a student has been taken into custody or arrested on school premises without prior notification to the principal, the school staff present shall encourage the law enforcement officers to notify the principal of the circumstances as quickly as possible. In the event that the officers decline to notify the principal, the school staff members present shall immediately notify the principal.
- E. If at all possible, parents or the guardian or representative of the student shall be notified by the principal or other school administrator before the student is taken into custody by law enforcement officers, or as quickly thereafter as can be accomplished. The administrator shall document such notification or attempted notification.

#### IV. DISTURBANCE OF SCHOOL ENVIRONMENT

Law enforcement officers may be requested to assist in controlling disturbances of the school environment which the principal or other school administrator has found to be unmanageable by school personnel, and which has the potential of causing harm to students and other persons, or to property. Such potential of possible harm includes members of the general public who have exhibited undesirable or illegal conduct on school premises or at a school event held on school property and who have been requested to leave by an administrator, but have refused or failed to do so.

#### V. COORDINATION OF POLICIES WITH LAW ENFORCEMENT OFFICERS

- A. It is the policy of the Bangor School Department that a reasonably cooperative effort be maintained between the School Department and law enforcement officers. The School Department also will attempt to protect the interests and rights of the students and parents. The School Department further recognizes that whenever possible the parents, guardian or representative of the student will be contacted and fully advised of any circumstances involving a student.
- B. The principal or assistant principal of each school, together with the Superintendent or Director of Pupil Services, shall meet annually with representatives of the City of Bangor Police Department to discuss the School Department's relationship with the Police Department and the operation of these guidelines.

ISSUED: 5 November 1986

