

Regulation JIH-R

Las Cruces Public Schools

Related Entries: JIH, ECE, ECE-R
Responsible Office: Associate Superintendent for Operations

STUDENT SEARCHES AND SEIZURES

I. PURPOSE

To implement the policy of the LCPS Board of Education for conducting searches and seizures with regard to students enrolled in the school district.

II. DEFINITIONS

1. *“Pat-down search”* means an appropriately designated searcher patting and running his/her hands over the outside of a student’s clothing, feeling for any objects in or under the clothing.
2. *“Contraband”* means any substance, material, or object prohibited from school pursuant to school policy or state or federal law, including but not limited to drugs or drug paraphernalia, alcohol, fireworks, or weapons.
3. *“Authorized searcher”* or *“searcher”* means a staff member at an LCPS school who has been authorized by that school’s principal to conduct personal searches of students. Said searcher shall be of the same gender as the student.
4. *“Sniffer dog”* means a dog that is trained to and works at using its senses (usually smell) to detect substances, including illegal drugs.
5. *“Sweep”* means an examination by persons, working sniffer dogs and/or detection devices, of a room or building to determine the presence of illegal drugs and other contraband.
6. *“Cleared”* means that a room or building has been determined to be free of any contraband.
7. *“Freeze”* means a school, a classroom or designated portion of a school is not operational for normal school-day activities while a sweep is being conducted.
8. *“Alert”* means a sniffer dog has detected the presence or possible presence of a contraband substance.
9. *“False Alert”* means a sniffer dog has detected the presence or possible presence of a contraband substance, but no such substance is found.
10. *“Chain of custody”* means the chronological documentation showing the seizure, custody, control, transfer, analysis and disposition of contraband or other physical evidence that has been seized in a search or sweep conducted at a school.

III. GUIDELINES

A. Basis for Personal Searches

1. No personal search shall be conducted except upon a *reasonable, individualized suspicion* by a school administrator or staff member that the student is in possession of contraband in violation of state or federal law or of Board or school policy. Such reasonable, individualized suspicion shall be reported to the principal for further action.
 - a. A reasonable, individualized suspicion is one based upon *objective, observable facts*. The general perception that the student was “acting strangely” is NOT generally sufficient to give rise to a reasonable, individualized suspicion.

Examples of reasonable, individualized suspicion:

 - i. Observation that a student had a small plastic bag in his/her hand, and when the student saw the staff member approaching him/her hurriedly stuffed the bag down the front of his/her pants or otherwise attempted to hide or dispose of the bag;
 - ii. Observation that a students’ gait was impaired, speech slurred, or the student exhibits other indications of impairment or being under the influence of drugs or alcohol, such as bloodshot eyes, odor of marijuana on the student’s person, etc.
 - iii. A student reports that he/she personally observed drugs or a weapon in the physical possession of another students.
 - b. The scope or extent of the search must also be reasonably related to the reason for the search.
 - c. In addition, the more intrusive the search, the more individualized suspicion may be required to warrant it. For example, a directive to “open your hands” might require little or no individualized suspicion, while respectively greater degrees of individualized suspicion would be required to have a student empty his or her pockets, open his or her bag, or submit to a pat-down search.
2. When possible, the observations upon which an administrator or staff member bases a reasonable, individualized suspicion should be confirmed by another administrator or staff member.
3. Before initiating a personal search, the administrator or staff member should explain the basis of his or her suspicions to the suspected student and give that student an opportunity to explain the observed behavior. A referral for a search is appropriate if the suspected student fails to provide a satisfactory explanation for his/her behavior.

B. Conducting Personal Searches

1. The principal will designate at least two persons, one of each gender, from the school’s administrative or teaching staff who shall be authorized to conduct personal searches of students. A backup to each “authorized searcher” may also be designated. Each authorized searcher shall be familiar with the school district’s policies on substance abuse and possession of contraband, and with this Regulation and Policy JIH: Student Searches and Seizures. The school

principal shall arrange periodic training for the authorized searchers by qualified local law enforcement personnel, which may include the school resource officer.

2. In any case in which an administrator or staff member has a reasonable, individualized suspicion that a student is impaired or in possession of contraband, a personal search of that student may be conducted by any of the authorized searchers of the school who are of the same gender as the person to be searched.
 - a. Searches should be conducted in private, by an authorized searcher the same gender as the person to be searched, and in the presence of one or more teachers or administrators who are the same gender as the person to be searched.
 - b. The searcher should first ask the student to be searched to empty any bags, purses, backpacks or other containers he or she is carrying or in possession of; and to empty the pockets of any outerwear, such as jackets, coats, or sweaters, he or she is wearing. Once emptied by the student, the searcher should examine any container to ensure that it does not contain any contraband substance. The searcher should next ask the person to remove any outerwear he or she is wearing, and, upon removal, the searcher should examine the garment and ensure that it does not contain any contraband.
 - c. The searcher should next ask the student to empty and turn out the pockets of his/her pants, shirts, dresses, skirts, etc.
 - d. The searcher should next “pat down” the person to determine if any objects or containers remain on the student.
 - e. If the searcher detects an object during the pat-down, he/she shall ask the student to remove the object and produce it for observation.
 - f. At any time that a container is produced by the emptying of bags, pockets, or as a result of the pat-down, the searcher shall ask the person to open the container to allow inspection of its contents if the contents cannot be otherwise observed.
 - g. More intrusive searches than pat-downs, such as strip searches, are virtually never necessary, and may not be conducted except upon the specific prior authorization of the Superintendent.
3. If an item of contraband is produced as a result of the search, a “chain of custody” should be established as follows:
 - a. The item should be placed in a container, and the container should be sealed and labeled;
 - b. The labeled container should immediately be turned over to duly authorized law enforcement officials or the LCPS Safety and Security coordinator;
 - c. The label should identify:

- i. The object. For example: “small glass vial containing white powder” or “hand-rolled cigarette containing unknown substance”;
 - ii. The person from whom the object was obtained;
 - iii. The place, date and time of the search;
 - iv. The names and signatures of searcher and the witness(es) who were present for the search.
4. **In no instance should any school personnel resort to any type of physical constraint, force, or threat, and no one should be physically compelled to submit to a search.** If at any point in the search, the student to be searched refuses to cooperate with the search, the searcher should explain that such refusal may be a basis for discipline, including suspension and expulsion of the student. If the student continues to refuse to cooperate, he/she should be referred to the principal. Any students so referred may be subject to immediate, short-term suspension and to further action pursuant to the terms of the school district’s policies and state and federal laws.
5. In the event the reasonable suspicion for the search or the information received or observed by school personnel initiating the search prior to the student’s refusal leads the searcher or school principal to believe that the student is in possession of dangerous weapons or illegal drugs, the school principal shall have the discretion to contact local law enforcement for further investigation of the student’s conduct.
6. Upon completion of the search, the searcher, in conjunction with the administrator or staff member whose observation led to the search, should produce a “search memorandum” stating with reasonable particularity, at least the following:
 - a. the observations upon which the suspicion was based;
 - b. a statement that an explanation of the suspicion was given to the student;
 - c. the student’s explanation or response, if any;
 - d. the procedure followed in conducting the search; and
 - e. the results of the search, if any. If the student refused at any point to cooperate in the search, the memorandum shall so state, and shall note the searcher’s explanation to the student the potential consequences of such refusal, and the result of such explanation. The search memorandum shall be signed by the searcher and all witnesses to the search and shall be submitted to the school principal and the LCPS Safety & Security Coordinator as soon as possible after the search.

IV. COMPARTMENT, ROOM, AND VEHICLE SEARCHES

A. Basis for Searches

1. Searches of compartments that remain under the control of the school district pursuant to applicable LCPS policy and regulation, i.e., lockers, desks, and the like, may be searched at the discretion and direction of the principal or his/her designee, at any time, with or without reasonable, individualized suspicion, and with or without the consent of the student who is using such compartment.
2. Searches of vehicles displaying a school district parking permit may be conducted at the discretion and direction of the school principal or his/her designee, at any time the vehicle is on school grounds. Application for a parking permit shall constitute express permission by the student and parent that the vehicle may be searched by, or at the direction of, authorized school officials any time that it is on school premises, and the issuance of a parking permit for the vehicle shall constitute a waiver of any and all claims arising from such searches.

Searches of vehicles not displaying a school district parking permit may be conducted only if such vehicles are on school premises and based on reasonable suspicion as specified below.

The school district retains the authority to conduct routine patrols of school parking lots and inspections of exteriors of vehicles on school property. Such patrols and inspections may be conducted without notice and without consent.

The exterior of such vehicles on school grounds and as much of the interior as is observable from the exterior, may be viewed at any time by administrators and staff members. A search of the interior of such vehicles without a parking permit may be conducted by the principal, or his or her designee, only if an administrator or staff member has a reasonable, individualized suspicion, as detailed in item III.A above, that the vehicle contains contraband in violation of state or federal law or of Board or school policy, and the principal authorizes a search on the basis of such suspicion.

3. Searches of compartments or vehicles shall be conducted by the principal or by his/her designee in the presence of at least one witness who is a school district employee.

B. Conducting Searches

1. Compartments and storage facilities: If a search of such a compartment is to be conducted, the student using such compartment or storage facility shall be asked to facilitate the search; for example, by unlocking and opening the locker, desk, etc.
 - a. If, at any time, the student who is the subject of the search refuses to cooperate, the searcher should inform him or her that such refusal may result in discipline, including suspension or expulsion. If the student continues to refuse to cooperate, he or she should be referred to the principal, as described in section III.B.4 above. Notwithstanding such refusal to cooperate, the compartment in question may be opened by the searcher. If any such compartment is under the lock of a student who has refused to cooperate with the search, such lock may be cut or otherwise removed to open the compartment.

- b. If the compartment search produces contraband, the searcher should follow the “chain of custody” procedures described above in section III.B.3 above, and should produce and submit a “search memorandum” as described in section III.B.6 above.
2. Student vehicles on school premises: exterior searches: Observations of the exterior of said vehicle, and of so much of the interior as may be observed from the exterior, may be conducted at any time by the principal or his or her designee.
3. Student vehicles on school premises: interior searches: Before initiating an interior search of a vehicle, the principal or his or her designee should explain the basis of his or her suspicions to the student who owns or is in possession of the vehicle to be searched, and shall give him or her an opportunity to explain the observations upon which the suspicion is based. A search may be conducted, upon authorization by the Superintendent or his/her designee, if the person fails to provide a satisfactory explanation.
 - a. The searcher should request that the student facilitate such search by opening all vehicle doors, trunk or bed cover (for pickup trucks), glove compartment, and any container(s) in the vehicle, etc.
 - b. If the student whose vehicle is to be searched refuses to cooperate, the searcher should follow the procedure prescribed in section III.B.4 and III.B.5 above. **In no instance, should any school personnel resort to any type of physical compulsion, force or threat; and no interior inspection of a vehicle should be conducted unless the interior has been unlocked for such inspection by the student whose vehicle is to be searched.**
 - c. If a search of a vehicle produces contraband, the searcher should follow the “chain of custody” procedures described above in section III.B.3 above.
 - d. Regardless of whether an interior search produces contraband, the searcher should follow the “search memorandum” procedures described above in section III.B.6 above.

V. PROCEDURES FOR USE OF DRUG SNIFFER DOGS

The following procedures shall be implemented in conjunction with the other provisions of this regulation for conducting searches and seizures.

A. Preconditions For Use of Sniffer Dogs

1. Notice: In any school year in which sniffer dogs are used by the school district to any extent, the school district shall publish notice of such possible use at the beginning of the school year in the parent/student handbook and on the district website.
2. Determination of Basis for Dog Sweeps

Prior to any use of sniffer dogs in a school’s classrooms, hallways, or other areas or facilities, the school administration shall find that there is a significant

and serious problem of student drug use/abuse in the school warranting the use of sniffer dogs. Such finding may be based upon one or more of the following:

- a. A compilation of the number of drug related disciplinary actions in the school during recent years, showing a significant or increasing incidence of such actions;
 - b. A compilation of the number of drug-related arrests of students of the school by local law enforcement authorities, showing a significant or increasing incidence of such arrests;
 - c. A survey of students of the school showing significant levels of drug use;
 - d. Strong and documented evidence from school personnel or students regarding significant levels of student drug use.
3. Review of Findings: The school's finding of a significant and serious problem of student drug use at the school must be reviewed and approved by the Superintendent, prior to any use of sniffer dogs in school classrooms, hallways, or other areas or facilities.
 4. Limited Use of sniffer-dog sweeps: Sniffer dogs may be used on a limited basis for sweeps of lockers, or student purses or backpacks while not in the physical possession of the student and vehicles on a school campus at the discretion of the superintendent, and without meeting the requirements of subsection V.A.2 above.
 5. The use of sniffer dogs for sweeps of students' persons shall be limited to instances in which reasonable individualized suspicion is present as defined in this regulation.
 6. Preventative Measures
 - a. The LCPS Safety and Security coordinator shall request, monthly or bi-monthly, approval to conduct unannounced sniffer dog drug sweeps of schools. The Associate Superintendent of Instruction and/or Operations shall select the schools where the sweeps shall be conducted.
 - b. Schools shall be selected for the sweeps on a rotating basis, through a fair and unbiased process. Principals of selected schools shall cooperate fully with the sweeps.
 - c. Sniffer dogs may also be used for educational demonstrations at all district schools.

B. Qualification of Sniffer Dogs and Handler

1. Certification and Record Keeping
 - a. Dogs and dog handlers provided by contract for use in an LCPS school shall have been certified or recertified by a recognized training institution for all substances for which sweeps will be conducted at the school within 12 months of providing such services.

- b. No contract for services by a contractor providing dogs and dog handlers to be used in any school shall be executed prior to the contractor's presentation of documentation of:
 - i. The reliability of the dog and dog handler in the form of the certification and training record of the dog and dog handler, and of the results of the dog's field work during the prior three months; and
 - ii. Insurance for liability arising out of the performance of the dog or dog handler, as approved by the superintendent or his/her designee.
2. The contractor shall make and maintain records of the results of each sweep by the dog and dog handler, including the number of alerts, and description of contraband recovered (if any), as a result of each alert, and the number of false alerts (if any).
3. Every contract for services by a contractor providing dogs and dog handlers to be used in any school shall include a provision which shall allow the school district to cancel the contract at any time that the dog's record of false alerts is excessive as determined by the LCPS Safety and Security coordinator.

VI. PROCEDURES FOR SNIFFER DOG SWEEPS AND SEARCHES

A. Preparation

1. The dog handler(s) shall meet with the Safety & Security Coordinator and the school principal or his/her designee and review these procedures in their entirety prior to the conducting of any sweep, except as outlined in items V.A.4, V.A.5 and V.A.6 above.
2. All school telephones shall be put on hold and no incoming or outgoing calls shall be permitted until further notice by the principal. The use of cellular phones shall be monitored by the school staff, principal or his/her designee.
3. The school principal or his/her designee shall announce over the school's public-address system that all classes and activities on campus are in a "freeze," and that all students and staff are to remain in their classrooms or current activity location until further notice. Students observed using cell phones, pagers, or other electronic devices in an effort to transmit messages after the announcement of the freeze shall have the device confiscated until the freeze is over.
4. All entrances to the building shall be monitored by the school principal's designees (entrance monitors). No one shall be allowed to enter the building unless he/she is assisting with the freeze or authorized to enter by the principal or his/her designee. Students shall be informed that they are not to leave the building, and that if they do so, they may be subject to discipline. Entrance monitors shall keep a written record of the names of any students who leave the building despite such warning, and the time each such student left. The entrance monitor shall sign and date such record and present it to the principal

after the class freeze is lifted. **In no event should an entrance monitor attempt to physically prevent any student or other person from leaving the building or suggest that such student or person may be physically prevented from leaving.**

5. During the freeze, a student shall be permitted to leave a classroom or activity under escort of a school employee for a visit to the restroom or for other such personal emergencies during any period when no sweep is being conducted of the student's classroom.
6. Students in classrooms or activities that have been designated to be part of the sweep shall be escorted to a designated area within the school being swept. Students shall leave all purses, backpacks, coats, hats or other items which they may have brought with them to the classroom or activity in the classroom or activity location during the sweep. Monitors shall observe the room as the students leave.

B. Conducting Sweeps

1. The dog handler shall be accompanied at all times by the LCPS Safety and Security coordinator or his/her designee, school principal and two school staff members selected by the principal, one of whom shall remain with the dog handler to serve as an additional witness, and the second of whom shall accompany to the holding area any students who are directed there by the principal.
2. The dog handler shall, at all times, be responsible for handling the dog, and shall take care that the dog makes *no* physical contact with any student or school district employee while the dog is at work. The school principal and his/her designees will facilitate any physical arrangements necessary to ensure that no such physical contact is made. The dog handler shall also be responsible for informing the Safety and Security Coordinator or his/her designee and the principal or his/her designee when the dog is alerting.
3. The school principal or his/designee shall designate a room or office in the building as a holding area for students and/or staff who may be asked to wait for questioning or a reasonable suspicion search.
4. The holding area shall be cleared before anyone is asked to wait there and the school principal shall assign a school staff member to wait with those who are directed to the holding area.
5. The holding-area monitor shall advise any student who has been directed to the holding area and thereafter seeks to leave that by leaving the holding area, the student may be subject to discipline, at the discretion of the school principal.
6. The holding-area monitor shall keep a written record of the names of any students who leave the holding area despite such warning, and the time each student left. The holding-area monitor shall sign and date the record and present it to the school principal once the freeze is lifted. **In no event should the holding-area monitor attempt to physically prevent any student from leaving the holding area or suggest that such student may be physically prevented from leaving.**

7. In the event the dog handler informs the Safety and Security Coordinator or school principal that a student's backpack, purse, desk, chair or area where student sits is the subject of an alert, the principal shall ask the student to proceed to the holding area under the escort of one of the staff members selected by the principal in Item VI.B.1 above.
 - a. No one other than the school principal or his/her designee shall direct any student to the holding area.
 - b. **In no event should questioning or searches of students be conducted at the place and time at which the dog has "alerted" the dog handler and/or school staff to the possible presence of contraband.**
 - c. Any student who refuses to proceed to the holding area at the direction of the school principal shall be informed that, by such refusal, he/she may be subject to discipline, at the discretion of the principal. **In no event should any student be subjected to any physical force or compulsion, nor should it be suggested to any student that physical force or compulsion may be used.**
 - d. Those directed to the holding area shall be questioned and searched or released as soon as possible by the school principal or his/her designee after the sweep has been completed.
 - e. In the event the dog handler informs the Safety and Security Coordinator and school principal that a sniffer dog has alerted to the possible presence of contraband in a desk, backpack, purse, locker or other compartment or a vehicle, the dog shall be removed from the immediate scene and the school principal or his/her designee shall summon the student who is the user of the desk, locker or other compartment, or is the owner or in possession of the vehicle and escort said student to the scene. Any student who refuses to proceed to the scene at the direction of the principal shall be informed that, by such refusal, he/she may be subject to discipline, at the discretion of the principal. **In no event should any student be subjected to any physical force or compulsion, nor should it be suggested to any student that physical force or compulsion may be used.**
8. Students may be directed to empty their pockets, remove jackets or other outerwear and shoes, to open bags or other containers; and may be subjected to a pat down by a same-gender searcher in the presence of a witness.
9. If a search of a locker is to be conducted due to a dog alert as to the possible presence of contraband, the student using such locker shall be asked to facilitate the search by unlocking and opening the locker.
 - a. If, at any time, the student refuses to cooperate, the searcher shall inform the student that such refusal may result in discipline, including suspension or expulsion. If the student continues to refuse to cooperate, he/she shall be referred to the school principal for discipline. Notwithstanding such refusal to cooperate, the locker in question may be opened by the searcher. If any such locker is under the lock of a

- student who has refused to cooperate with the search, such lock may be cut or otherwise removed to open the locker.
- b. In the event the reasonable suspicion for the search or the information received or observed by school personnel initiating the search prior to the student's refusal leads the searchers or school principal to believe the student is in possession of illegal drugs, the school principal shall have the discretion to contact local law enforcement for further investigation of the student's conduct.
 - c. The searcher may seize any contraband in plain view. If no contraband is in plain view, the sniffer dog shall be returned to the scene to identify the specific location of the contraband, which then may be searched by the searcher.
 - d. If the locker search produces contraband, the searcher shall follow the chain of custody procedures as described in section III.B.3 above, and shall produce and submit a search memorandum as described in section III. B.6 above.

C. Searches of Vehicles on School Premises

- 1. Observations of the exterior of such vehicle, and of so much of the interior as may be observed from the exterior, may be conducted at any time by the school principal or his/her designee.
- 2. Vehicles on school premises – interior searches: Before initiating an interior search of a vehicle, as to which a sniffer dog has alerted or the school principal has reasonable individualized suspicion that contraband is present in the vehicle, the school principal or his/her designee shall explain the basis of his/her suspicions to the student who is the owner or in possession of the vehicle to be searched, and shall give him/her an opportunity to explain the observations upon which the suspicion is based. A search may be conducted, upon authorization by the school principal or his or her designee, if the student fails to provide a satisfactory explanation.
- 3. The searcher shall request that the student facilitate such search; for example, opening the doors, trunk, glove compartment, etc.
- 4. If the student whose vehicle is to be searched refuses to cooperate, the searcher shall explain that such refusal may be a basis for discipline, including suspension and expulsion, and that local law enforcement officials may be summoned. If the student continues to refuse to cooperate, he/she shall be referred to the school principal and local law enforcement shall be summoned. Any student so referred may be subject to immediate, short-term suspension and to further action pursuant to the terms of school district policy and regulation and state and federal law. **In no instance shall any school personnel resort to any type of physical compulsion force or threat, and no interior inspection of a vehicle shall be conducted unless the interior has been unlocked for such inspection by the student whose vehicle is to be searched.**

- a. The student and his or her parents/guardians shall be notified to remove the vehicle if the student continues to be uncooperative.
 - b. The school principal, at his or her discretion, may have the vehicle removed from school grounds (at owners' expense) and may ban the owner and/or user of the vehicle from parking the vehicle on school property for the remainder of the school year. (See LCPS Policy and Regulation: ECE Traffic and Parking Procedures, and ECE-E1: Vehicle Tow Form.)
5. The searcher may seize any contraband or suspected contraband which is in plain view. If no contraband is in plain view, the sniffer dog may be returned to the scene to identify the specific location of the contraband, and said location may then be searched by the searcher.
 6. If a search of a vehicle produces contraband, the searcher shall follow the chain of custody procedures described in section III.B.3 above.

Regardless of whether an interior search produces contraband, the searcher shall follow the search memorandum procedures as described in section III. B. 6 above.

VII. COMPLETION PROCEDURES

- A. Once the sniffer dog and dog handler have been escorted out of the school building, the school principal or his/her designee shall announce over the school's public address system that the freeze is over. The use of telephones and building entrances may then also return to normal.
- B. All records made by the dog handler, entrance monitors, etc., shall immediately be signed and dated and presented to the school principal.
 1. Confidentiality: No information of any type that leads to or results from a search or seizure shall be communicated, revealed or disclosed by school district personnel to any person, except as follows:
 - a. Such information shall be communicated to other schools or school district personnel only upon a "need-to-know" basis. A need-to-know basis means that the person to whom such information is communicated is authorized to take action on behalf of the school district based upon such information and needs the information to discharge his/her official duties and responsibilities.
 - a. Such information may be communicated to the parent/guardian of any un-emancipated student to whom the information relates.
 - b. Such information shall be disclosed to law enforcement agencies upon the approval of the school principal or his/her designee.
 - c. All documentations collected shall be maintained by the school and copies of all documents shall be forwarded immediately to the LCPS Federal Programs Department for review.
 - d. The return of any confiscated items to the parents of the student(s) from whom it was seized shall be coordinated by the confiscating school principal or the LCPS Safety and Security Coordinator. Items

confiscated by law enforcement personnel as evidence of criminal activity shall be retained by law enforcement as needed in connection with an ongoing criminal investigation or prosecution.

VIII. REVIEW

This Regulation shall be reviewed on an ongoing basis in accordance with the Board of Education policy review process.



Associate Superintendent of Operations

March 25, 2015

Date Approved

History: Formerly Procedure 365, 370 and Policy JIH, revised 05/20/08, revised 04.24.09, revised 09.12.11; 03.25.15

Legal Reference: Fourth Amendment and case law on search and seizure