



SEARCH, SEIZURE AND CONFISCATION POLICY

NAG 5

To be read in conjunction with:

MOE: Surrender and retention of property and searches – guidelines

<https://www.education.govt.nz/school/managing-and-supporting-students/student-behaviour-help-and-guidance/searching-and-removing-student-property/>

MOE: Guidelines for the surrender and retention of property and searches

<https://www.education.govt.nz/assets/Documents/School/Guidelines-for-the-surrender-and-retention-of-property-and-searches.pdf>

Education and Training Act 2020: Section 106

<http://www.legislation.govt.nz/act/public/2020/0038/latest/LMS176259.html>

Digital technology – A safe-use guide for schools - <https://education.govt.nz/school/digital-technology/digital-technology-guide-for-schools/>

UNDERLYING PRINCIPLES:

Principle 1

The Board of Trustees are required to provide a safe physical and emotional environment for students and staff. A safe environment for students and staff is of paramount importance and therefore must be given primacy when applying the guidelines. National Administration Guideline 5 and other legislation clearly establish this. The Board of Trustees regards students as full participants in society, with human rights entitlements that are common to all people as well as special rights and responsibilities attendant upon their status as children and young people and the special vulnerability which accompanies that status.

Principle 2

Parents, students and the public will have a legitimate expectation that the school environment will be free from drugs, weapons, alcohol and cyber bullying. They will expect schools to develop a written policy and procedure on surrender and retention and to advise them accordingly. Schools must be mindful of these expectations.

Principle 3

Parliament has given powers and clarified the law in relation to searches and retaining student property. In exercising these powers, schools must act reasonably, in good faith and in the least intrusive manner to achieve a safe environment.

Principle 4

The Board of Trustees will ensure that the school's policies and practices promote the well-being, human dignity and rights of students in accordance with the provisions of the 1990 New Zealand Bill of Rights Act, Human

Rights Act 1993 and the Articles of the 1989 United Nations Convention on the Rights of the Child.

Students are protected under Section 21 of the New Zealand Bill of Rights Act 1990, which states: “Everyone has the right to be secure against unreasonable search or seizure, whether of the person, property or correspondence or otherwise”.

This section doesn't prohibit searches or seizure of student property but schools must be able to justify their actions as reasonable and necessary to maintain a safe environment. The following will be taken into account in determining whether the search and/or seizure is reasonable or not.

- Consideration of the grounds for commencement of the search and/or seizure and/or confiscation.
- The extent of the interference with or invasion of privacy.
- The health, safety and wellbeing of the student

PURPOSE:

The purpose of this policy is to support the maintaining of an environment which is safe to all of our community members. The policy actions will enable the recovery of stolen property, the detection of illegal weapons or substances, digital information stored on their digital device or other digital technology or to assist in any situation reasonably believed to:

- compromise the physical or emotional safety of students, staff or the school
- detrimentally affect the learning environment.

PROCEDURES:

1. Reasonable grounds means that a student has an item that is likely to endanger safety, or is likely to detrimentally affect the learning area, or is harmful.
2. A student may be searched when matters of inappropriate material, stolen property, illegal substances, and items not permitted at school or weapons are involved.
3. The Principal or delegated Deputy Principal (in the absence of the Principal) should be consulted prior to a search.
4. Our staff must seek permission from the student for a search. This permission must be clearly asked for and positively given. If a student refuses, parents or caregivers should be contacted to seek permission. Usual school disciplinary or behaviour management practices (including stand down and suspension) may be applied.
5. In searching a student's bag, electronic device or other property these procedures should be adhered to:
 - a. The search should, as far as is possible and safe, be conducted in a private space.
 - b. Students must be told the reason for the search.
 - c. Students must be asked if there are any embarrassing items or information in their possession and be treated respectfully with regard to those items, especially if they are not related to the purpose of the search.
 - d. Students should be given the opportunity to produce the material being searched for.
 - e. Two staff should be present.
 - f. Male staff should not search a female student's property.
 - g. Female staff should not search a male student's property.
 - h. The contents of any bag, or other property are to be treated carefully and with respect.
 - i. Staff may impound items of personal property belonging to students on the clear understanding to the students that the items will be returned to them at the end of the day or to their parents/caregivers as soon as they can collect them. Banned or dangerous items will not be returned to students without parents/caregivers' consent.

6. If it is necessary to search the clothing being worn by a student, the following additional procedures should be adhered to:
 - a. Only outer clothing should be searched.
 - b. The student must not be patted down.
 - c. The student should be asked to remove the items of clothing to be searched.
 - d. The student may turn out his/her own pockets etc. and if necessary should pat down his/her own clothing.
 - e. Any items of clothing are to be cared for and treated with respect.
 - f. Only items which are illegal or not permitted in school or whose ownership is in dispute may be retained.
7. If it becomes necessary to search the person or clothing being worn more directly then parents/caregivers must be contacted and approval sought, or the police contacted and involved.
8. If you begin a search and it becomes unsafe to continue (for example a student refusing to comply to reasonable requests or becoming agitated), stop.
 - a. Ensure the student and the belongings in question are under supervision in a safe place and contact the parents and/or the Police. It is then up to the parents and/or Police to decide what action to take.
 - b. If you begin a search and the student takes the item and runs away, consider your options. It may not be wise to run after the student. If a student seeks to obstruct a search you may:
 - i) contact the Police if you believe there is an immediate threat to safety and/or
 - ii) contact the parent or guardian of the student, alert them to the circumstances and follow the usual school disciplinary processes.
9. If the situation is a class-based instance of missing property, the class may be held pending a resolution. In this circumstance, a Dean or Senior Leadership Team member should be contacted immediately. The guidelines for any potential search are those outlined above.
10. Whole class searches are not permitted. Where a small group is involved in a situation a search must be justified using the criteria above.
11. Non-regulation clothing and/or jewelry may be confiscated and handed in to the Student Centre. These items may be collected by the student(s) at the end of the week (or following Friday if confiscated on a Friday) or returned directly to their parent/caregiver on request.
12. The same procedure applies to student property which is banned at school or which is being used in a way that compromises an orderly educational environment. The exception to this is if the health and safety of people may be compromised, in which case appropriate agencies may be involved.
13. All reasonable care will be taken to ensure the safe keeping of confiscated items while in the possession of the school. However, such items are brought at the owner's risk and the school cannot accept liability for loss or damage.
14. Incidents that involve Digital Technology:

The staff member conducting the search, applying the above, **can**:

Ask a student to:

- reveal the item
- delete the item (if appropriate)
- surrender the digital device on which the item is stored
- retain the surrendered digital device for a reasonable period and while the item is in their possession, they must take all reasonable care of the item and if the device is to be retained for overnight or a longer period, it must be placed in secure storage.

The staff member must ensure that a record is made and kept of the digital device. They have up to two days to complete this record.

The record must show:

- the date on which the device was taken
- name of the student from whom the item was taken
- the name of the teacher or staff who took the device.

At the end of the retaining period, the teachers must return the digital device to either:

- the student, or
- the person the item belongs to, or
- pass it on to the student's parents/caregivers.

If a criminal offence has been suspected the device should be passed directly to the Police. For example in case of drug involvement, threatening to kill or do grievous bodily harm or criminal harassment.

The staff member conducting the search, applying the above, **cannot**:

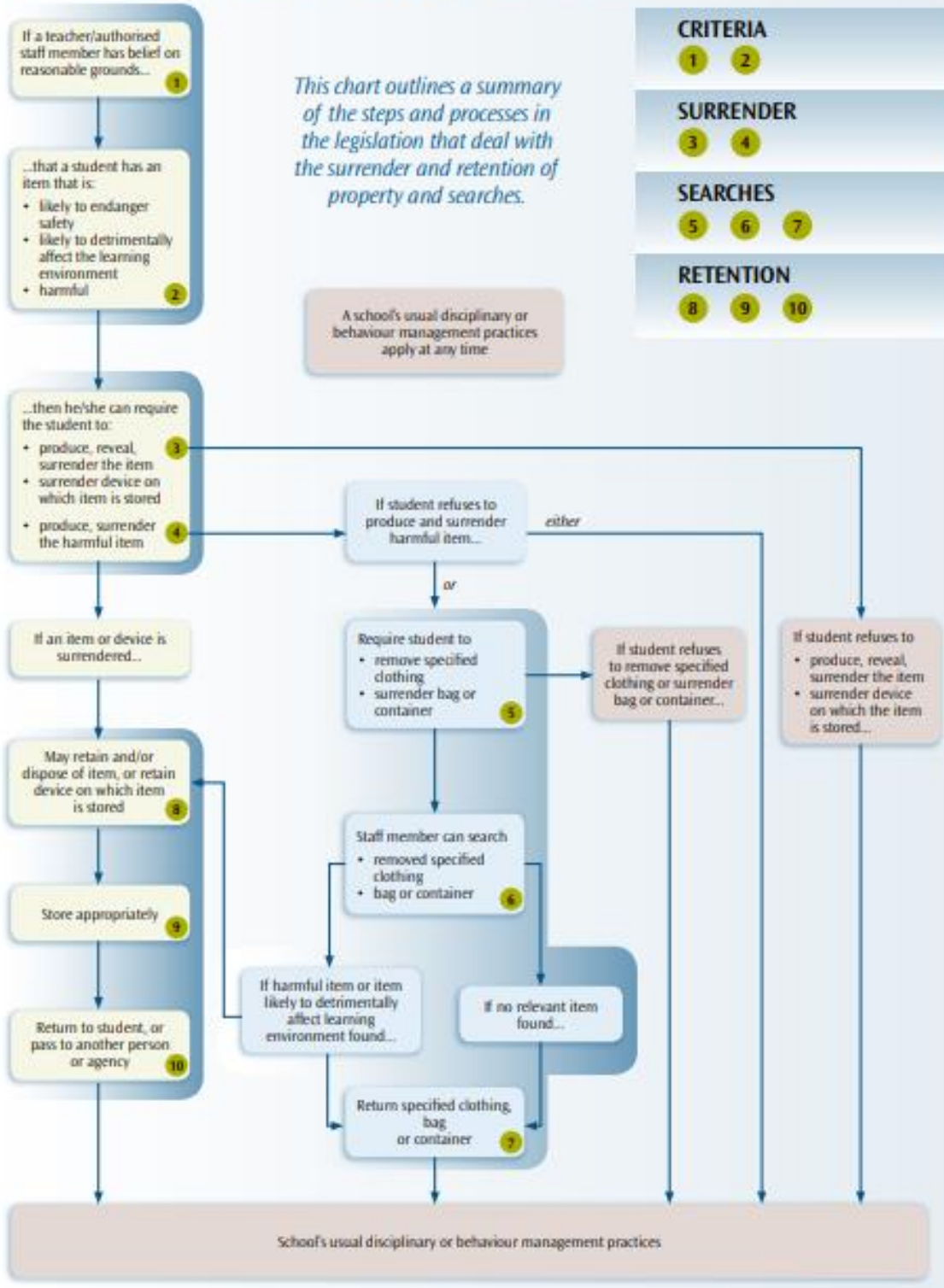
- Ask any student to reveal an item in his/her digital device, or surrender their digital device without forming a reasonable belief that the student's device is storing an item which is likely to endanger the emotional safety or detrimentally affect the learning environment.
 - Search through the content of students' digital devices or online accounts.
 - Ask for students' passwords to access the digital devices on which the item is stored.
 - Ask students to download and/or reveal items that are stored on another digital device, on a social media or other online service.
 - Use physical force against a student.
 - Ask two or more students to reveal or surrender their digital devices together without forming a reasonable belief that each student has an item that is likely to endanger the emotional safety or detrimentally affect the learning environment.
15. In all instances of conducting a search, a record of the search detailing name of student, date and time of search, staff members involved, reason for search and outcome, must be completed and submitted to the Principal.

Below is a Summary Chart:



Summary Chart

Surrender & retention of property and searches



GUIDELINES for the surrender and retention of property and searches

This policy should be read in conjunction with the Long Bay College Policies on Alcohol and Drug Policy, Behaviour Management Policy, Child Protection Policy, Cybersafety Use Agreement, ICT Policy and is consistent with the requirements of the Privacy Act, 1993.

New/Reviewed	Tabled	Adopted	Signed
First Draft 12/10/00 Second Draft 31/1/01 Third Draft 16/2/01 Fourth Draft	16/3/01	3/4/01	By John Brockliss, Board Chairperson
7/05	1/8/05	6/9/05	By Andrew Stewart, Board Chairperson
24/8/07	5/10/07	6/11/07	By Richard Griffin, Board Chairperson
20/10/09, amendments to Sub Committee 16/3/10		6/4/10	By Richard Griffin, Board Chairperson
15/5/12 to Sub Committee	5/6/12	7/8/12	By Rob Gosling, Board Chairperson
October 2014	4/11/14	2/12/14	By Robyn van der Sande, Board Chairperson
5/12/17	6/3/18	6/3/18	By Robyn van der Sande, Board Chairperson
Under Review May 2021	1/06/2021	6/07/2021	By Kevin de Jong, Board Chair