

Port Ahuriri School Policy Searches, Surrender and Retention of Property

Rationale

The Port Ahuriri School Board of Trustees complies with all relevant legislation and regulations concerning requirements for the operation of the school.

The School endeavours to provide a safe physical and emotional environment for students and staff. Parents, students, staff and the public have a legitimate expectation that the school environment will be free from illegal and/or potentially harmful or injurious items against the school policies or rules.

In order to achieve this, the School may, in accordance with the Education Act 1989, conduct searches and seize property.

Students are protected under section 21 of the New Zealand Bill of Rights Act 1990 which provides that “everyone has the right to be secure against unreasonable search and seizure, whether of the person, property, correspondence or otherwise”. Therefore, all searches must be reasonable and necessary in order to maintain a safe environment.

Purpose

The purpose of this procedure is to:

- Provide a fair and dignified process.
- Provide the guidelines for searches, surrender and retention of property.

Guidelines

- The Ministry of Education “Guidelines for the surrender and retention of property and searches’ (January 2014) shall be followed.
- Where possible, Section 2 of the MOE Guidelines shall be reviewed prior to undertaking a search, surrender or retention of property.
- Searches are only permitted where there are reasonable grounds to believe that a particular student has an item that is harmful. Blanket searches and searches for non-harmful items are not permitted. It is unlawful to search a student’s person.
- Search and seizure will be carried out only by the Principal or Deputy Principal and a teaching staff member of the same gender as the student. Searches required during off-site activities, without access to the Principal or Deputy Principal need to be conducted at the teacher’s discretion, and with reference to the spirit of this policy.

Retention and disposal:

- All due care will be taken with items retained, but staff and the school cannot be liable for these items.
- The Act provides guidelines for when items seized may be disposed of. Items shall only be disposed of by the Principal. Note that this includes the deletion of seized items such as texts, videos or photos from electronic devices.

Records:

- In the event of any retention, the Principal shall be advised and will prepare a written record in accordance with ‘Education (Surrender, Retention, and Search) Rules 2013’, Rule 10.
- In the event of any search, the Board must be advised in writing at the next scheduled Board meeting. The report shall be in accordance with ‘Education (Surrender, Retention, and Search) Rules 2013’, Rule 11.

- Records shall be retained for a minimum of 7 years.

Police involvement:

- The Principal will determine if it is appropriate to contact the Police in case of any item seized or where Police or another agency involvement is required in relation to providing a safe physical and emotional environment.
- The School will not retain or destroy unlawful drugs, but hand these over immediately to the Police.

Key considerations:

- The New Zealand Bill of Rights Act 1990 prohibits unreasonable search and seizure.
- The Human Rights Act 1993 protects people from discrimination, including where a person is treated unfairly or less favourably than another person in similar circumstances because of age, race, colour or disability.
- Personal information may be involved or generated after the search or surrender of an item. The School's privacy procedures and the Privacy Act 1993 shall be followed.
- These procedures do not limit the School's rights to search any part of its own property (including digital property).
- The School's discipline and behaviour management practices shall also apply.
- This procedure does not limit staff's ability in emergency situations to take action in accordance with Sections 41 and 48 of the Crimes Act 1961.

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