

OFFICE OF THE GENERAL COUNSEL WORKSHOP SEPTEMBER 29, 2020

POLICY ON SPECIALLY TRAINED ANIMALS



BROWARD COUNTY PUBLIC SCHOOLS

PURPOSE AND GOAL OF THE SPECIALLY TRAINED ANIMAL POLICY

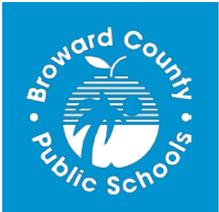
The School Board of Broward County, Florida recognizes the importance of promoting a safe learning environment. To that end, The School Board, with local law enforcement, may conduct searches for illegally possessed ammunition or drugs on School Board property using specially trained animals under the control of law enforcement officers.

The policy attempts to balance a student's expectation of privacy with the school's need to maintain a safe learning environment



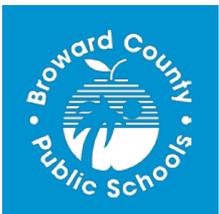
GOVERNING CASE LAW (U.S. Supreme Court)

- Fourth Amendment's restrictions on unreasonable search and seizure is applicable to public school officials. Legality of search hinges on reasonableness under the circumstances. *N.J. v. T.L.O. (1985)*
- School district's student athlete drug policy authorizing random urinalysis drug testing to participate did not violate the 4th Amendment when the interest protected is important enough to justify the search. *Vernonia School Dist. v. Acton. (1995)*
- Random drug testing policy for all student athletes furthered school district's important interest of deterring and preventing drug use does not violate 4th Amendment when supported by school based evidence of drug use in school and the only consequence was to limit the student's participation in extracurriculars. *Bd. of Ed of Pottawatomie. (2002)*



GOVERNING CASE LAW (Florida)

- School Board policy authorizing random suspicionless searches of high school students by school officials in classrooms with metal detectors was reasonable and constitutional in light of growing presence of firearms and weapons in public schools. *State v. J.A.* (3rd DCA, 1995)
- School parking lot sniffed by dogs yielding alert on teacher's car resulted in a constitutional search of the car by LEO. *Hearn v. Board of Public Ed.* (11th Circuit, 1999)



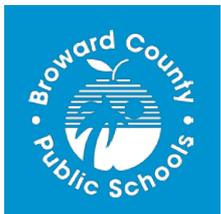
GOVERNING CASE LAW (Florida)

- School official must have reasonable suspicion to search a student. (*J.D. v. State, 4th DCA, 2006*)
- Drug detection dog's satisfactory performance in a certification training program is sufficient reason to trust an alert. (*Harris v. State, Florida Supreme Ct, 2013*)



POTENTIAL TYPES OF ITEMS TO BE SNIFFED

- Animals must be trained to sniff for a specific item or substance such as:
 - Bomb materials
 - Ammunition
 - Drugs



TYPES OF SEARCHES

Reasonable Cause Search by School Administrator

- The administrator must have a reasonable suspicion to initiate a search of an individual student –
 - Observes something suspicious
 - Smells drugs
 - Receives a reliable tip about weapons or drugs
- Search must be reasonable in scope
- Currently, school administrators may conduct a search of a student or student's property based upon a reasonable suspicion



TYPES OF SEARCHES

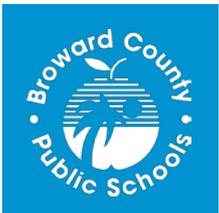
Probable Cause Search by LEO

- More than reasonable suspicion that a criminal offense has been committed and that the potential arrestee has committed the offense
- A sniff alert by a trained animal may give rise to probable cause, resulting in a search by law enforcement



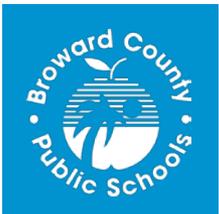
POTENTIAL ISSUES

- Case law suggests that policies for random suspicionless searches of students for weapons and drugs can pass constitutional muster if there is evidence of an underlying need for such a search.
 - Is there an established need for a Specially Trained Animal to sniff for ammunition in our schools?
- Case law is split on whether a dog sniff of an individual's person, (nose to clothes) is invasive and a potential violation of privacy as well as the 4th Amendment.
 - Any unintentional sniff of a student which results in an alert may be unconstitutional unless there is prior evidence of weapons/drugs issue.
- Any search must be preceded by giving students notice that they are subject to a reasonable search on school board property.
 - All schools must post notices



REQUIREMENTS

- There must be a nexus between the invitation of the sniff animal to school property and a preexisting concern by school staff
- Specially trained, non-aggressive animals, must remain under the control of their handlers at all times
- Specially trained animals must possess training or certification to sniff for a single purpose, i.e. ammunition, bombs, or drugs



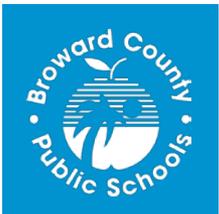
PROCESS

- Use of animals to sniff on School Board property
 - Animals may sniff student property in vacant classrooms, bathrooms and other locations where students congregate – animals shall not sniff students individually
 - A sniff is not a search, but can give rise to a search of the student's property by a law enforcement officer
- Administrator must accompany animal handler



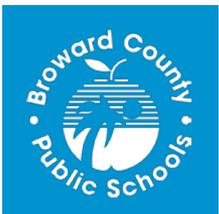
PROCESS

- A student's desk or property receiving an alert may result in questioning of the student by law enforcement officer
 - The student will be escorted to a location away from other students for questioning and possible search by either an administrator or a law enforcement officer
- Refusal to submit to a search may result in the student being subject to school-based discipline per the discipline matrix and possible arrest by law enforcement
- Illegally possessed items shall be confiscated and turned over to law enforcement or SIU



PROCESS

- School administrators shall attempt to contact parents prior to any questioning by law enforcement
- A search yielding items prohibited by the School Board policy shall be confiscated by administrator and the chain of custody must be followed
- Administrators shall take appropriate disciplinary action



QUESTIONS?



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