



School

Dunedin Rudolf Steiner

Learning with head, heart and hands

SURRENDER AND RETENTION OF PROPERTY AND SEARCHES POLICY

Rationale

This Procedure is intended to assist the Dunedin Rudolf Steiner Board and their staff when the surrender and retention of property from students is contemplated. Further information is available on the Ministry of Education's website and in their guidelines.

Purpose

To enhance the health and safety of Dunedin Rudolf Steiner School for staff and students and to ensure students are not subjected to unreasonable search and seizure processes in the school.

Fundamental Principles

Dunedin Rudolf Steiner School is required to provide a safe physical and emotional environment for students and staff (NAG5).

Parents, students and the public have a legitimate expectation that the school will be free from drugs, weapons, alcohol and cyber-bullying. The Board and management of the school have developed this procedure on surrender and retention to advise them accordingly.

In relation to searches and the surrender and retention of student property the school will act reasonably, in good faith and in the least intrusive manner to achieve a safe environment.

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 does not prohibit searches or seizure of student property but this policy and procedures will enable the school to justify their actions as reasonable and necessary to maintain a safe environment.

A student may be asked to remove outer clothing, but cannot have the clothes they are wearing or their body searched. If there is concern that a serious offence is to be committed or drugs or weapons are involved then the police should be called.

NOTE: The Schools's usual disciplinary or behaviour management practices apply at any time. Police involvement applies at any time. An action taken under the legislation may or may not involve the Police.

Key Features

The following procedures sets out the practice to be followed by the school in respect of three key types of items covering things that are:

1. Likely to endanger the safety of others
2. Likely to have a negative or disruptive affect on the school's learning environment
3. Harmful (poses an immediate threat to the physical or emotional safety of any person)

All three points above allow a staff member to **require** students to produce, reveal, or surrender items in their possession, only a belief that a student has something that is **harmful** allows a staff member to conduct a search. When searching students the authorised staff member must act in the least intrusive manner to achieve a safe environment.

Interpretations

Device means a computer or other electronic device that is not, in itself, an item but on which an item is stored.

Item means an item that can be considered harmful or can be used harmfully.

Information to be made Available

The board will ensure the following documents are available for inspection at the school:

- (a) The guidelines issued by the Secretary of education under section 139AA1 of the Education Act 1989;
and
- (b) The names and positions of authorised staff members i.e. the Principal

Authorisation of Staff Members

1. Every authorisation given by a board to a staff member must be in writing.
2. The authorisation must specify whether the staff member is authorised to exercise the powers;
 - (a) under section 139AAA of the Act; or
 - (b) under section 139AAB of the Act; or
 - (c) under both sections 139AAA and 139AAB of the Act.
3. The board must give the staff member a copy of the authorisation.
4. As soon as practicable after the staff member receives the authorisation, the member must give the board a written acknowledgment of its receipt.
5. The board may, by written notice to the staff member, revoke any authorisation at any time.

Considerations

To be taken into account in dealing with items or devices taken under Act

1. A person must take into account the considerations specified in subclause (2) when the person decides, under the Act or these rules, whether;
 - (a) an item or a device taken under the Act is to be retained, returned to a student, passed to another person, or passed to another agency; or
 - (b) an item taken under the Act is to be disposed of.

2. The considerations are;
 - (a) the health and safety of people;
 - (b) the apparent value of the item or device concerned;
 - (c) the person believed to be entitled to the possession of the item or device concerned.

Retention and Storage of Items or Devices taken under the Act

1. This rule applies to any item or device that has been taken under the Act and is to be retained.
2. Every teacher and every authorised staff member who is in possession of the item or device must take all reasonable care of the item or device while it is in his or her possession or under his or her control.
3. The teacher or authorised staff member who takes the item or device may;
 - (a) keep the item or device in his or her possession; or
 - (b) give the item or device to another teacher or to another authorised staff member; or
 - (c) arrange for the item or device to be placed in secure storage.
4. A teacher or other staff member of a school who is in possession of an item or a device that is to be retained overnight or for a longer period must ensure that the item or device is placed in secure storage.

Returning items or devices to Students or passing them to other Persons or Agencies.

1. If a teacher, an authorised staff member, or the board determines that, in light of the considerations specified in rule 6(2), an item or a device taken under the Act can be appropriately returned to the student from whom it was taken, the item or device must be made available to the student as soon as practicable after determination.
2. A teacher, an authorised staff member, or the board may, if satisfied that it is appropriate to do so in light of the considerations specified in rule 6(2), pass the item or device to –
 - (a) another person, such as a parent or caregiver or the person believed to be entitled to the possession of the item or device; or
 - (b) an agency, such as the New Zealand Police or the New Zealand Customs Service.

Disposal of Items

1. An item taken under the Act may be disposed of if a teacher or an authorised staff member considers that it is appropriate to do so in light of the considerations specified in rule 6(2).
2. No item taken under the Act may be disposed of by selling the item.

Record of Retentions

1. Each board must ensure that a record is made and kept of every item or device taken under the Act that is retained;
 - (a) for 2 nights, each of which follows a day on which the school is open for instruction; or

- (b) for a longer period.
2. Every record must contain the particulars that the board prescribes from time to time, which must include the following:
 - (a) the date on which the item or device was taken:
 - (b) the name of the student from whom the item or device was taken:
 - (c) the name of the teacher or authorised staff member who took the item or device.

Record of Searches

1. The board of each school must ensure that a record is made and kept of every search that is carried out, under section 139AAB of the Act, of a student’s clothing, bags, or other containers.
2. Every record must contain the particulars that the board prescribes from time to time, which must include the following:
 - (a) the date on which the search was conducted:
 - (b) the name of the student whose belongings were searched:
 - (c) the name of the teacher or authorised staff member who conducted the search:
 - (d) where applicable, why it was not practicable to comply with the relevant requirements stated in section 139AAC(2) and (3) of the Act in any case where the search –
 - (i) was not carried out by a teacher or an authorised staff member of the same sex as the student:
 - (ii) was not carried out in the presence of another teacher or authorised staff member of the same sex as the student:
 - (iii) was carried out in the view of any person other than the teacher or authorised staff member carrying out the search, the student, and another teacher or authorised staff member.
3. Any record must be kept for a minimum period of 7 years after it is made.

Explanatory Note

These procedures set out the practice to be followed by schools in respect of things that are dealt with by schools because they are items that endanger the safety of persons or detrimentally affect the learning environment (items) or because they are computers or electronic devices (devices) on which items are stored. The procedures also require records to be made and kept of searches undertaken to locate items that are believed to pose an immediate threat to the physical or emotional safety of persons. The powers to deal with items and devices and to undertake searches are conferred on schools by sections 139AAA and 139AAB of the Education Act 1989 (the Act), which also come into force on January 2014.

Signed: _____ Print Name _____

Dated: ____/____/____ Review Date: ____/____/____

Record of Search

Date and time of search:.....

Name of student searched

Name of authorised teacher who conducted the search.....

Where applicable, why it was not practicable to comply with the relevant requirements stated in section 139AAC(2) and (3) of the Act in any case where the search –

- (iv) was not carried out by a teacher or an authorised staff member of the same sex as the student:
- (v) was not carried out in the presence of another teacher or authorised staff member of the same sex as the student:
- (vi) was carried out in the view of any person other than the teacher or authorised staff member carrying out the search, the student, and another teacher or authorised staff member.

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Details of any item removed from pupil.....

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Person responsible for keeping item

Date for any return of item

Signature of parent to confirm return



School
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Name and Address
 Of authorised person

Date

Dear

The Board hereby authorises you to exercise powers in relation to the school’s procedure on Surrender and Retention of Property and Searches.

You are authorised

- under section 139AAA of the Act to require a student to surrender an item; or
- under section 139AAB of the Act; to search a student’s bags, outer clothes or other containers, or
- under both sections 139AAA and 139AAB of the Act.

(Board to delete any section that is not relevant)

This procedure would be carried out in instances where you have reasonable grounds to believe that an item is:

1. Likely to endanger the safety of others
2. Likely to have a negative or disruptive affect on the school’s learning environment
3. Harmful (poses an immediate threat to the physical or emotional safety of any person)

All three points above allow a staff member to **require** students to produce, reveal, or surrender items in their possession, only a belief that a student has something that is **harmful** allows a staff member to conduct a search. When searching students the authorised staff member must act in the least intrusive manner to achieve a safe environment.

Please confirm that you will follow the school’s procedure on Surrender and retention of Property and Searches, and that you have also read the Ministry Guidelines on this matter.

Please return one signed copy of this letter.

Yours sincerely

Helen Thomlinson
Board Chair

I confirm that I will act in accordance with the relevant guidelines

Staff member name..... Signed.....