

MENOMINEE INDIAN SCHOOL DISTRICT

445 RULE

GUIDELINES FOR STUDENT INVESTIGATION, INTERROGATION,
ARREST AND SEARCH

Investigation in Schools

1. By law enforcement personnel, on request of school authorities
 - a. An administrator may exercise his/her discretion in determining whether to request assistance of police in investigating a crime, or allegation of a crime, committed in his/her school building or school grounds during school hours. If assistance is so requested, it shall be directed to the local law enforcement, a school administrator shall consider the mandatory reporting requirements of Section 48.981 in the event the allegations involve child abuse or neglect.
 - b. If the administrator requests assistance, a police officer may conduct an investigation within the school building and interview students as witnesses in school during the school day. The administrator or his/her designee shall be present during the interview unless the law enforcement officer, student or his or her parent or guardian requests that the school official not be present. The school official shall attempt to contact the parent(s) or legal guardian of any student prior to questioning by police. A decision whether to take a student into custody is the decision of the police.
 - c. Once law enforcement is involved in an investigation of possible criminal activity on school grounds, assuring that the constitutionally protected rights are respected during the investigation process is the law enforcement officers' responsibility.

- d. School officials shall assist and cooperate in investigations as requested by law enforcement and consistent with District responsibility to the confidentiality of student records under state and federal law.
2. By law enforcement personnel without request of school authorities
 - a. Police officers will make every effort to interview students outside of the school hours and outside of the school setting in those cases where assistance has not been requested by school authorities. This procedure will not apply to circumstances where a serious crime maybe involved, where imminent threats to persons or property may be involved, or where law enforcement states that it is not feasible to interview the student outside of school due to the nature of the investigation and that they are not able to provide specific information substantiating the need to immediately interview the student.
 - b. If the police deem it necessary to interview a student at school, the law enforcement personnel shall first contact the administrator/designee regarding the planned visit and inform the administrator of the need to interview a student during school hours. The administrator shall make effort to maintain the privacy of the student, accordingly, the administrator shall do the following.
 - i. Require the law enforcement officer to sign in upon arrival at the school and complete a form stating the reasons why questioning may not wait until after school hours. (NOTE: THIS FORM SHOULD ALLOW THE OFFICER TO STATE THE REASON IS CONFIDENTIAL.)

- ii. Request that law enforcement arrive at school conspicuously (e.g. dressed in plain clothes and driving undercover vehicle)
 - iii. Request that every attempt be made to schedule questioning during a time the student is not in class.
 - iv. Request that the student be pulled out of class by a school official, rather than a police officer, if necessary.
 - v. Notify the law enforcement officer that the School Official will be contacting the student's parent(s) or guardian(s) prior to questioning.
- c. If law enforcement officer is in possession of a valid warrant, school officials shall in no way interfere with the officer's execution of the warrant. A warrant shall be considered "Valid" if it accurately describes the school facility and is executed by an authorized judicial official. District officials shall not attempt to evaluate the sufficiency of probable cause upon which the warrant is based.
- 1a. The police officer conducting the interrogation shall use his or her expertise and training to assure that constitutionally protected rights are respected during the interrogation process.

Arrest by Police Officer

1. Law enforcement officers shall avoid arresting or taking custody of any student in school during school hours unless requested by the administrator/designee, or unless the officer determines that arrest in school

is necessary to protect the safety of others, or has an arrest warrant or juvenile commitment order, which the issuing authority or juvenile court directs be served at school.

2. In cases where the student is taken into custody, the police officer shall first contact the administrator/designee and advise him/her of such fact. The student shall first be summoned to the office by the administrator/designee. Law enforcement shall act in accordance with section 2(b) above.
3. Emergency Situations Only
 - a. In emergency situations where the commission of a serious felony or misdemeanor has been witnessed by a police officer or if the police officer is in pursuit of a student for such crime, school officials will not prevent the law enforcement officer from arresting the student. However, before removing such juvenile from the school grounds, the police officer shall inform the administrator/designee of such apprehension.
 - b. The administrator/designee shall record the name of the police officer, the time of the arrest, the name of the issuing authority of any arrest warrant, the nature of the crime for which apprehension is made, and the place of custody or detention. After the arrest, the administrator/designee shall make every reasonable effort to notify the parents/guardian.

Search of Students and/or Student Belongings on School Property

1. By School Officials or police, on request or school authorities

Recognizing the law enforcement offices have specialized training in safely conducting searches for potentially dangerous or illegal items. If a building administrator/designee has reasonable belief that evidence of a crime, stolen goods, drugs, weapons, or items of an illegal or prohibited nature is located in a, certain student's personal belongings, on the student's person, or in a student's or non-student's automobile on school property, the building administrator/designee may request police assistance in conducting a search of the suspected student's belongings, and if appropriate, his or her person. The search shall be conducted by law enforcement in the course of assisting the school official in conducting its investigation. In such a case, the search may only be conducted as follows:

- i. The student will first be asked for consent to conduct the search, and where possible will sign a consent form for the search. If consent is not provided freely, a search may be conducted if:
 - ii. The school official has reasonable belief prior to search that a crime has been or is in the process of being committed or a school rule has been or is in the process of being violated and that the search will produce evidence of such
 - iii. The search when conducted must be minimally invasive upon the student's personal belongings or person as necessary to fulfill the search as justified in the first instance, taking into account the nature of the infraction and the students age and sex.
2. By police, without request of school authorities
- a. Police officers may not search students' automobiles or personal belongings unless they have a search warrant, or probable cause to believe a crime has been or is being committed by the student, and may not search a student's

person in school unless the student is under arrest or unless the law enforcement determines he or she has probable cause to conduct search during the course of an investigation or as otherwise determined to be necessary by the law enforcement officer to protect his or her safety or the imminent safety of others.

- b. A school official may not consent to a warrantless search of a student's locker, desk, automobile, or other personal belonging. The student, if then available, shall be present during the search.

Search of Students by School Officials:

1. The administrator or designee, if possible, shall conduct student searches. Otherwise, searches conducted by teachers shall be conducted in the presence of another teacher. In such cases, a full written report shall be forwarded to the principal. The parents/guardian shall be notified in writing of any student search.
2. The student's parent(s) or/guardian(s) shall be notified in writing of any student search.
3. Searches of students, by administration or teachers and seizures of illegal or dangerous items or items which violate school rules may occur only under the following circumstances.
 - a. When the search is based upon a reasonable suspicion that a student has a dangerous, illegal item, substance or other item in violation of school rules in his/her possession. The reasonable suspicion must have been based on reliable information or personal observation indicating that a student is in violation of school rules or the law or possesses some other dangerous item.

- b. The search is conducted in the least intrusive manner and is reasonable related in scope to the circumstances which justified the search in the first place.

Strip Search of Student

Students may not be strip searched by District personnel.

NOTES REGARDING SEARCH OF STUDENTS

Note #1

The standards for search and seizure require that the reasonable suspicion justifying the search must be based upon distinct factors. Factors to be considered in determining whether grounds for the search exist are:

1. The student's sex age, history and school record. Because of his/her training and repeated contacts with the students, the teacher can use previous incidents and behavior as part of a reasonable basis to believe that an immediate search is necessary.
2. The prevalence and seriousness of the problem in the school in which the search was directed.
3. The urgency of requiring the search without delay.
4. The probative value and reliability of the information used as justification for the search.
5. The employee's prior experience with the student.

APPROVED: March 22, 1982

REVISED: December 1990
January 1994
July 17, 2006