

# Riverbank Academy

## Searching and Confiscating Policy

*Riverbank Academy is an outstanding broad-spectrum special school for students aged 11-19 within the Sidney Stringer Multi-Academy Trust.*

*Through our policies and practice we aim to help all Riverbank students uphold the schools core values of being Motivated, Creative and Caring.*

**Date: September 2019**

**Review: September 2020**

## **Overview:**

This policy has been written using advice taken from Searching, Screening and Confiscation: Advice for Headteachers, school staff and governing bodies DfE 2018 The school acknowledges its legal duty to make reasonable adjustments for disabled children and children with special educational needs (SEN). Equality Act 2010 Search with Consent

School staff can search a pupil for any item if the pupil agrees. The school will take into account the age of the child when considering consent.

It is enough for the teacher to ask the pupil to turn out his or her pockets or if the teacher can look in the pupil's bag or locker and for the pupil to agree. They do not need written consent from the child.

The school makes clear in their school behaviour policy and in communications to parents and pupils what items are banned.

If a member of staff suspects a pupil has a banned item in his/her possession, they can instruct the pupil to turn out his or her pockets or bag and if the pupil refuses, the teacher can apply an appropriate punishment as set out in the school's behaviour policy.

A pupil refusing to co-operate with such a search raises the same kind of issues as where a pupil refuses to stay in a detention or refuses to stop any other unacceptable behaviour when instructed by a member of staff – in such circumstances, schools can apply an appropriate sanction Search Without Consent

The Head and staff authorised by the Head have a statutory power to search pupils or their possessions, without consent, where they have reasonable grounds for suspecting that the pupil may have a prohibited item.

Prohibited items are:

- knives or weapons
- alcohol
- illegal drugs
- stolen items
- tobacco and cigarette papers
- fireworks or pornographic images
- any article that the member of staff reasonably suspects has been, or is likely to be, used to commit an offence, or to cause personal injury to, or damage to the property of, any person (including the pupil)

Where possible the staff member conducting the search should be the same sex as the pupil being searched; and there must be a witness (also a staff member) and, if at all possible, they should be the same sex as the pupil being searched. If a staff member of the opposite sex does conduct a search with a witness, this must be agreed in the first instance by the senior leadership team.

There is a limited exception to this rule. Staff can carry out a search of a pupil of the opposite sex without a witness present, but only where the staff member reasonably believes that there is a risk that serious harm will be caused to a person if they do not conduct the search immediately and where it is not reasonably practicable to summon another member of staff.

### **Establishing grounds for a search**

Teachers can only undertake a search without consent if they have reasonable grounds for suspecting that a pupil may have in his or her possession a prohibited item. The teacher must decide in each particular case what constitutes reasonable grounds for suspicion. For example, they may have heard other pupils talking about the item or they might notice a pupil behaving in a way that causes them to be suspicious.

In the exceptional circumstances when it is necessary to conduct a search of a pupil of the opposite sex or in the absence of a witness, the member of staff conducting the search should bear in mind that a pupil's expectation of privacy increases as they get older.

The powers allow school staff to search regardless of whether the pupil is found after the search to have that item. This includes circumstances where staff suspect a pupil of having items such as illegal drugs or stolen property which are later found not to be illegal or stolen.

School staff can view CCTV footage in order to make a decision as to whether to conduct a search for an item.

Searches without consent can only be carried out on the school premises or, if elsewhere, where the member of staff has lawful control or charge of the pupil, for example on school trips in England or in training settings.

### **Confiscation**

School staff can seize any prohibited item found as a result of a search. They can also seize any item, however found, which they consider harmful or detrimental to school discipline.

When deciding what to do with the confiscated items, staff will follow the guidelines set out in Searching, Screening and Confiscation: Advice for Headteachers, school staff and governing bodies DfE 2018 Dealing with Electronic Devices (statutory guidance)

Where the person conducting the search finds an electronic device they may examine any data or files on the device if they think there is a good reason to do so. Following an examination, if the person has decided to return the device to the owner, or to retain or dispose of it, they may erase any data or files, if they think there is a good reason to do so.

The member of staff must have regard to the following guidance issued by the Secretary of State when determining what is a “good reason” for examining or erasing the contents of an electronic device:

In determining a ‘good reason’ to examine or erase the data or files the staff member must reasonably suspect that the data or file on the device in question has been, or could be, used to cause harm, to disrupt teaching or to go against the expectation in the school’s Behaviour Policy.

If inappropriate material is found on the device it must be reported through safeguarding procedures.

### **Guidance for Carrying Out A Search. What the law says:**

The person conducting the search may not require the pupil to remove any clothing other than outer clothing.

‘Outer clothing’ means clothing that is not worn next to the skin or immediately over a garment that is being worn as underwear but ‘outer clothing’ includes hats, shoes, boots, gloves and scarves.

‘Possessions’ means any goods over which the pupil has or appears to have control – this includes desks, lockers and bags.

A pupil’s possessions can only be searched in the presence of the pupil and another member of staff, except where there is a risk that serious harm will be caused to a person if the search is not conducted immediately and where it is not reasonably practicable to summon another member of staff.

### **Also note:**

The power to search without consent enables a personal search, involving removal of outer clothing and searching of pockets; but not an intimate search going further than that, which only a person with more extensive powers (e.g. a police officer) can do.

### **Lockers and desks**

Under common law powers, schools are able to search lockers and desks for any item provided the pupil agrees. Schools can also make it a condition of having a locker or desk that the pupil consents to have these searched for any item whether or not the pupil is present.

If a pupil does not consent to a search (or withdraws consent having signed a consent form) then it is possible to conduct a search without consent but only for the “prohibited items” listed above.

## **Use of force in a search/confiscating**

See our Riverbank Academy Care and Control Policy

## **Informing Parents**

There is no requirement for the school to inform parents before a search

Parents may be informed as part of the school behaviour policy and procedures.

Parents will be informed if the matter is sufficiently serious or could be potentially harmful to the pupil or the school.

If a parent makes a complaint, the normal procedures for dealing with a complaint should be followed.

## **Record Keeping**

Whilst there is no legal requirement for the school to keep records of searches or confiscation Riverbank Academy, will evidence any records of searches/confiscation, through SIMS and if appropriate record on a student's individual intervention plan (PHIP).

**Policy review date September 2021**