

## Walden Academy Policy and Procedure Manual

### Chapter 5000, Students

#### Section 5145.12, Campus Search & Seizure

Date: Board Approved 2/27/24

Responsible Department: School Director

### CAMPUS SEARCH & SEIZURE POLICY

#### Statement of Findings

Walden Academy Charter School (the “Charter School”) recognizes and has determined that the occurrence of incidents which may include the possession of firearms, weapons, alcohol, controlled substances, or other items of contraband prohibited by law or Charter School rules and regulations, jeopardizes the health, safety and welfare of students and Charter School employees.

The California Constitution requires that all students and staff of public schools have the inalienable right to attend campuses which are safe, secure, and peaceful. As such, Charter School adopts this Policy outlining the reasonable search of students and their property, student use areas, and/or student lockers and the seizure of illegal, unsafe, unauthorized or contraband items and materials through a search based upon reasonable suspicion.

#### Definitions

- “Reasonable Suspicion” means a sufficient probability<sup>1</sup> that the search will reveal evidence the student has violated or is violating the law or Charter School rules and regulations. Certainty is not required. Articulate facts must support a school official’s reasonable suspicion that a search is justified. In no case shall a search be conducted if predicated on mere curiosity, rumor or hunch.
- A “violation of either the law or Charter School rules and regulations” includes, but is not limited to, possession of illegal, unauthorized or contraband materials. Illegal, unauthorized or contraband materials include those materials which are dangerous to the health or safety of students or school personnel, are disruptive or potentially disruptive, or which have been cited as unauthorized in Charter School rules or regulations.
- “Personal electronic device” means a device that stores, generates, or transmits information in electronic form, and is not owned or otherwise loaned to the student by Charter School.

---

<sup>1</sup> Hill v. California, 401 U.S. 797, 804 (1971).

- “*Electronic communication*” means the transfer of signs, signals, writings, images, sounds, data, or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric, or photo-optical system.
- “*Electronic communication information*” means any information about an electronic communication or the use of an electronic communication service, including, but not limited to, the contents, sender, recipients, format, or location of the sender or recipients at any point during the communication, the time or date the communication was created, sent, or received, or any information pertaining to any individual or *personal* device participating in the communication, including, but not limited to, an IP address.

### **Student Searches - Generally**

A Charter School official (e.g., administrator, employee, teacher, school police officer, and/or employee), may conduct a reasonable search of a student’s person and/or personal effects (e.g., backpack, purse, etc.), absent parent consent, if a school official has reasonable suspicion that the student is engaged in or has engaged in illegal activity or a violation of Charter School rules and regulations.<sup>2</sup> Whether a search is reasonable depends on the context within which a search takes place. The Charter School official must assess the reliability of the student or person providing the information, the degree of danger to others, and the immediacy of the need for a search.

The search of a student and/or of their personal effects must be:

1. **Justified at its Inception:** There are reasonable grounds for suspecting the search will turn up evidence that the student is violating or has violated the law or Charter School rules. Articulate facts must support a Charter School official’s reasonable suspicion that a search is justified. In no case shall a search be conducted if predicated on mere curiosity, rumor or hunch; and
2. **Reasonable in Scope:** The measures adopted are reasonably related to the objectives of the search and not excessively intrusive in light of the age and sex of the student and the nature of the infraction.

### **Searches of Private Electronic Devices**

Pursuant to the California Electronic Communications Privacy Act (CalECPA), a student’s personal cell phone, smartphone, or other personal electronic device shall not be searched by Charter School officials without a warrant, the student’s consent, or a legitimate emergency, unless the device is lost or abandoned. An emergency is any situation involving danger of death or serious physical injury to any person, that requires access to the information located or reasonably believed to be located on the electronic device. If the Charter School has a good faith belief that the device is lost, stolen, or abandoned, the Charter School may only access electronic device information in order to attempt to identify, verify, or contact the owner of the device.

---

<sup>2</sup> New Jersey v T.L.O, 469 U.S. 325 (1985)

Nothing in this Policy prohibits the Charter School from seizing/confiscating a student's personal electronic device, without searching its contents, if the student's use or possession of the private electronic device is in violation of Charter School rules or regulations.

### **Required Conduct of Searches**

Additionally, and pursuant to California Education Code Section 49050, any search of a student and/or of their personal effects shall be:

1. Conducted in the presence of at least one (1) other adult witness, whenever possible;
2. Conducted out of the presence of other students to maintain student confidentiality;
3. Conducted in a manner that does not involve:
  - a. Conducting a body cavity search of a student manually or with an instrument; or
  - b. Removing or arranging any or all of the clothing of a student to permit visual inspection of the underclothing, breast, buttocks, or genitalia of the student.
4. Documented by keeping a log of the search methods as well as a written description and/or pictures of any prohibited or illegal items ultimately seized as a result of the search.

### **Student Use Areas**

Student use areas, including, but not limited to, instructional and recreational space, are considered Charter School property and remain at all times under the control of Charter School. Periodic general inspections of instructional space and other areas of the school may be conducted by Charter School officials for any reason at any time without notice.

### **Canine Searches**

Charter School officials, including campus security or school police/resource officers, may use trained detection dogs in inspections of unaccompanied belongings for illegal, unauthorized or contraband materials in school facilities and around school grounds. All dogs must be accompanied by a qualified and authorized trainer who will be responsible for the dog's actions and who can verify the reliability and accuracy in sniffing out contraband. Trained detection dogs may sniff all unaccompanied locations, including, but not limited to: lockers, student use areas, vehicles, unattended backpacks and other student belonging, and other inanimate objects throughout school property. Prior to initiating a search, Charter School officials must have reasonable suspicion of a schoolwide concern.

An indication by the dog that illegal, unauthorized or contraband materials are present on school property shall constitute reasonable suspicion, authorizing school officials to search the area or other inanimate object and closed containers and objects within, without securing the consent of the student.

Charter School shall not use dogs to search a student's person without individualized reasonable suspicion of illegal, unauthorized, or contraband material.<sup>3</sup> If a dog alerts on a student's person, the alert shall constitute reasonable suspicion for a lawful search and all applicable law and policy discussed herein shall be followed in the subsequent search.

### **Lockers**

Student lockers, including P.E. lockers, are school property and remain at all times under the control of Charter School. Students shall assume full responsibility for the security of their lockers. Student lockers may not be used to store illegal, unauthorized, or contraband materials.

The acceptance and use of locker facilities on school campus by any student shall constitute consent by the student to the search of such locker facilities by authorized Charter School personnel and/or law enforcement. Inspections of lockers may be conducted by Charter School personnel and/or law enforcement though the use of trained dogs as described above.

### **Seizure of Illegal, Unauthorized, or Contraband Materials**

If a lawfully conducted search yields illegal, unauthorized, or contraband materials, such materials shall be turned over to the proper legal authorities for ultimate disposition.

### **Discipline**

If illegal, unauthorized or contraband materials are discovered during a search, including but not limited to searches conducted by Charter School officials or trained detection dogs, Charter School may impose discipline upon the student(s) (including suspension and/or expulsion) in accordance with Charter School's discipline policies and procedures. Charter School shall notify law enforcement authorities if any search and/or seizure results in the discovery of illegal contraband.

### **Video Surveillance and Other Recording Devices**

Charter School may utilize video surveillance devices in all common areas of the school campus including, but not limited to, outdoor spaces, entrances and exits, parking lots, stairwells, hallways, classrooms, the main office, school buses, and any other commonly used spaces. Charter School shall not utilize video surveillance devices in private spaces such as restrooms and locker rooms. Charter School's intent and purpose in utilizing video surveillance devices is to ensure student and staff health, welfare, and safety in order to maintain safe and orderly conduct throughout the school day.

Charter School shall not use audio recording where there is an expectation of privacy without prior consent of all parties subject to recording. Students, staff, parents, and other members of the public are similarly prohibited from audio recording on Charter School campus without prior

---

<sup>3</sup> *Chandler v. Miller*, 520 U.S. 305, 313 (1997).

consent. This policy does not prohibit the Charter School from recording classes as needed for student achievement nor any other permissible audio recording by the Charter School otherwise provided under the law.

Video surveillance recordings are not considered student education records unless the recording is maintained and (1) intended for use in a disciplinary action or proceeding, (2) depicts an activity that shows a student violating the law, (3) shows a student getting injured, attacked, victimized, ill, or having a health emergency, or (4) contains personally identifiable information from a student's educational record. A video surveillance recording is not considered a student's education record when the student's image is incidental to the activity shown in the recording or when the student is participating in a public activity.

Charter School shall comply with all state and federal law regarding access to, review, and disclosure of student records, including Family Educational Rights and Privacy Act ("FERPA"). This includes compliance with lawful requests under the California Public Records Act, from law enforcement, and other appropriate agencies. Charter School will evaluate the legality of any requests in advance of disclosure and will comply with all notice requirements under FERPA.