

## The legal framework to create a safe educational environment

In many countries, students are required to be at school under compulsory attendance rules. A stable school setting enhances a safe learning environment.

Violence and associated school safety raise legal questions about constitutional rights, due process, liability, privacy and records, discipline.

Schools develop proactively clear and consistent policies to promote a safe educational environment and have to publish, implement and maintain these safety policies.

Schools have a duty to provide reasonable supervision of students and maintain the safety of the school grounds. If these measures are appropriate, the risks of violence as well as its effects at school aftermath will be reduced.

School officials, teachers, or the school board face potential liability for civil damages for students harmed in the violent acts of students or non-students.

This is especially, when they fail to supervise a specific area at school where prior instances of violence occurred, when they fail to warn students about a pre-existing danger, or fail to adhere to their school safety plan.

Schools must ensure that primary-, secondary-, or higher school-age students and parents are informed in an understandable way about the provisions of the school conduct code school and of the safety plan.

As a part of procedures related to student enrollment, schools might ask students and parents to sign forms stating they have read the school conduct code.

### 1. Reasonableness

In order to be valid, the aim of school's actions and the methods used should be legitimate and reasonable. That is the standard that school safety and violence prevention policies and plans should meet.

Schools are required to show the same degree of care and supervision that a reasonably prudent parent would employ under the circumstances.

School officials balance student's access to education, autonomy and privacy with the need to make the school environment safe and maintain order and control.

### 2. Privacy issues

Schools are involved in significant record-keeping (including student's school records, medical, disciplinary records, crime reports, educational records) and should take reasonable steps to ensure that confidentiality is maintained.

Privacy issues should be taken into consideration in counseling matters within schools and between schools, social and health organizations, and law enforcement agencies.

Schools may disclose information to teachers who have a legitimate interest in the behavior of the student.

Reporting student information to another school or agency is a delicate matter.

Generally, a school that discloses an education record to another school must make a reasonable attempt to notify the parent or the student.

Generally the law restricts access to student records by non-school individuals or organizations without written consent from the parents, with exceptions for possession of drugs or weapons by students on school grounds, and behavior that reach the level of destruction of property or assault of fellow students or school personnel.

The release of information on disrespect for teachers or staff, bullying, behavioral or academic history, personal interests, extracurricular activity, or similar background information on a student will require notification to and consent of the student's parents before the information can be released to a third party.

Schools employ a standard set of security measures at their discretion if the methods actually used are reasonable.

School safety efforts may include:

- metal detectors,
- cameras,
- dress code policies,
- search and seizure.

Threats of harm to another person may take several forms including:

- direct threats
- indirect threats
- veiled threats
- conditional threats

Students' speech rights may be limited where they infringe on the rights of others, or if they disrupt class work or cause substantial disorder.

A search must be justified at its inception, conducted in a manner reasonably related in scope to the circumstances, no more invade student's rights than necessary to maintain order in schools.

School staff may frisk a student and proceed on reasonable suspicion. Teachers and staff should be careful to document their preliminary observations, sources of information, investigate evidence and verify the reliability of the information given by others that leads to reasonable grounds for a search.

The school owns the locker and locker searches are permissible as a function of the orderly administration of a school but the locker search should not extend to a student's private articles within the locker unless the student gives permission to search the items found in the locker and that permission is not obtained through coercion or undue influence.

Strip search represents a serious invasion of privacy.

Schools must thoroughly explain the search to the student in accordance with a pre-existing policy.

It may be reasonable when the item cannot be found in other locations, there is reason to believe the student possessed the item, and a policy outlining the strip-search procedure exists and is followed.

Metal detector searches are permissible security measures when a school policy governing such searches is in place and when notice (e.g., a posted sign) has been given stating that such searches will be conducted at that school.

Pre-established procedures should regulate the use of other metal-detecting methods to inspect students for metallic objects, and require a reasonable suspicion in order to be used.

Photographing public areas such as buses, hallways, classrooms, and cafeterias is permissible.

Where a student has an expectation of privacy in the area being filmed, the use of a camera is normally unacceptable.

Cameras placed in boys and girls locker rooms may not be reasonable when students' rightly expect some degree of privacy and the problem might be addressed otherwise.

Rules must bear some reasonable relationship to the educational mission of the school conducted in a safe educational environment.

The investigatory or search activities of police in a school must be objectively reasonable under the totality of the circumstances, based on an independent assessment of specific and identifiable facts in that situation.

Schools have the responsibility to ensure the safety of teachers and students and have an obligation to take action in dealing with undisciplined youths, who may potentially threaten the safety of the other children in attendance.

Schools have great flexibility to determine and establish disciplinary methods and may respond with discipline to threats of violence made by students, and suspend or expel students for infractions of school rules provided they respect fundamental rights such as due process, equal protection, free speech, freedom from discrimination based on race, religion, gender, disability, or national origin.

Disciplinary methods employed by schools include detention, time-out or isolation, alternative education programs, denial of participation in school activities, verbal reprimand, suspension, and expulsion.

A student may be disciplined for on-campus and for off-campus conduct if the school can show that the student's actions have a direct and immediate effect on school discipline and/or the safety of students and staff.

Reasons for suspension or expulsion of students are:

- students found with a weapon and any other inherently dangerous objects on school grounds,
- threats of violence from students, including assaults not involving the use of a weapon.

Certain procedural requirements must be followed if a student is to be suspended for a substantial period of time or expelled from a school. Generally, expulsion is warranted only in cases of repeated or extreme misconduct, attacking a fellow student or teacher, drug use, and weapons possession or use.

Procedural protection includes:

- Notice to the student and parents;
- A fair and impartial hearing;
- Right to be represented by counsel;
- Reasonable time to prepare;
- The opportunity to review evidence;
- The opportunity to examine or present witnesses;
- Record proceedings;
- Decision based on substantial evidence.

Generally, notice and a hearing must precede a student's removal from school, except when the student presents an imminent threat to him or herself or the safety of others, and in the case of conduct that seriously disrupts the academic atmosphere of the school, endangers other students, teachers or staff, or damages property.

In emergency situations, a two-step approach may be employed:

- first, immediately impose a temporary suspension or expulsion;
- second, enforce a permanent expulsion after the proper notice and hearing provided as soon as practicable.

## CONCLUSION

School policies should be aimed at awakening the child's respect for the law and for the dignity and integrity of all the members of the school community. True justice is less about the effort to exact punishment and retribution but about working to repair a safe and peaceful educational environment.