

## Cadrul legal pentru a crea un mediu educational sigur

### The legal framework to create a safe educational environment

In multe tari, elevii sunt obligati sa vina la scoala in conformitate cu normele privind prezenta obligatorie. Un mediu scolar stabil imbunatateste un mediu sigur de invatare.

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

Violenta si siguranta in scoala pun probleme juridice cu privire la drepturile constitutionale, un proces echitabil, raspundere, confidentialitate si situatii scolare, disciplina.

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

Scolile dezvolta in mod proactiv politici clare si coerente pentru a promova un mediu educational sigur si trebuie sa faca publice, implementeze si mentina aceste politici privind siguranta.

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

Scolile au obligatia de a asigura o supraveghere rezonabila a elevilor si de a mentine siguranta in incinta scolii. Daca aceste masuri sunt adecvate, atunci riscurile legate de violenta si de efectele acesteia asupra scolilor vor fi reduce.

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.

Oficialii scolii, profesorii sau consiliul scolii se confrunta cu posibila raspundere pentru daunele civile in cazul elevilor prejudiciati in actele de violenta care au implicat elevi/ persoane din exterior.

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.

Acest lucru se intampla in mod special, atunci cand acestia nu reusesc sa supravegheze o anumita zona a scolii in care au avut loc cazuri anterioare de violenta, atunci cand nu reusesc sa avertizeze elevii in privinta unui pericol pre-existent, sau nu respecta planul de siguranta al scolii.

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.

Scolile trebuie sa se asigure ca elevii din ciclul primar, gimnazial sau liceal si parintii acestora sunt informati intr-o maniera accesibila cu privire la prevederile codului de conduita scolară si la planul de siguranta.

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.

In cadrul procedurilor referitoare la inscrierea elevilor, scolile pot cere elevilor si parintilor sa semneze formulare prin care declara ca au citit codul de conduita scolară.

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 . Caracter rezonabil

Pentru a fi valabil, scopul actiunilor scolilor si metodele utilizate trebuie sa fie legitime si rezonabile. Acesta este standardul pe care politicile si planurile de prevenire a violentei si de siguranta in scoala ar trebui sa-l indeplineasca.

### 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.

Scolilor le este cerut sa dea dovada de aceeasi atentie si de aceeasi supraveghere pe care le-ar demonstra un parinte rezonabil de prudent in conditiile date.

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

Oficialii scolii pun in balanta accesul elevilor la educatie, autonomia si intimitatea acestora cu necesitatea de a avea un mediu scolar sigur si de a pastra ordinea si controlul.

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 . Probleme de confidentialitate

Scolile tin evidente detaliate (inclusiv situatii scolare, fise medicale, disciplinare, situatii infractionale si educationale) si trebuie sa ia masurile necesare pentru a se asigura pastrarea confidentialitatii.

### 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.

Problemele legate de confidentialitate ar trebui sa fie luate in considerare in aspectele care implica consilierea la nivelul scolii si intre scoli, organizatii sociale, de sanatate, si agentiile de aplicare a legii.

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

Scolile pot dezvalui informatii profesorilor care au un interes legitim in ceea ce priveste comportamentul elevului.

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

Raportarea informatiilor privind un elev catre o alta scoala sau o agentie este o chestiune delicata.

In general, o scoala care dezvaluie o situatie scolara catre o alta scoala trebuie sa faca o incercare rezonabila de a notifica parintele sau elevul.

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.

In general, legea restrictioneaza accesul la situatiile elevilor al persoanelor fizice din afara scolii sau a organizatiilor, fara acordul scris al parintilor, cu exceptia cazurilor in care elevii posedea arme sau droguri in incinta scolii si a unui comportament care merge pana la distrugerea bunurilor sau atacarea colegilor sau a personalului scolii.

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.

Furnizarea de informatii cu privire la lipsa de respect pentru profesori sau pentru personal, la acte de intimidare, background comportamental sau academic, interese personale, activitate extracurriculara, sau informatii de fond similare despre un elev vor necesita notificarea si consimtamantul parintilor elevului inainte ca informatiile sa fie puse la dispozitia unei a treia parti.

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.

Scolile folosesc un set standard de masuri de siguranta la libera lor alegere daca metodele folosite sunt rezonabile.

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

Masurile de siguranta in scoli pot include:

- detectoare de metale,
- aparate de fotografiat,
- coduri vestimentare,
- perchezitia si confiscarea.

School safety efforts may include:

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

Amenintarile catre o alta persoana poate lua mai multe forme, inclusiv:

- amenintari directe
- amenintari indirecte
- amenintari voalate
- amenintarile conditionate

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

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

Dreptul la libera exprimare al elevilor poate fi limitat in cazul in care se incalca drepturile altora sau in cazul in care ei perturba activitatea in clasa sau provoaca tulburari semnificative.

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

Perchezitia trebuie sa fie justificata inca de la inceput, realizata intr-o maniera rezonabila ca extindere date fiind circumstantele, sa nu afecteze drepturile elevilor mai mult decat este necesar pentru a mentine ordinea in scoli. 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.

Personalul scolii poate sa perchezitioneze un elev si actioneze pe baza unor suspiciuni rezonabile. Cadrele didactice si personalul trebuie sa fie atenti sa isi justifice observatiile preliminare, sursele de informatie, sa investigheze dovezile si sa verifice plauzibilitatea informatiilor furnizate de catre altii, care furnizeaza motive rezonabile pentru o perchezitie.

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.

Scoala detine dulapuri si perchezitiile dulapurilor sunt permise pentru a mentine ordinea in scoala, dar acestea nu trebuie sa se extinda asupra articolelor aflate in proprietatea elevului care se gasesc in dulap, cu exceptia cazului in care elevul da permisiunea de a le perchezitiona, iar permisiunea nu este obtinuta prin constrangere sau influenta.

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.

Perchezitia corporala reprezinta o grava invadare a intimitatii.

Scolile trebuie sa explice studentilor in detaliu perchezitia in conformitate cu o politica preexistenta.

Strip search represents a serious invasion of privacy.

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

Aceasta poate fi rezonabila, atunci cand respectivul lucru nu poate fi gasit in alte locatii, atunci cand exista motive de a crede ca lucrul este detinut de elev, si cand exista si este urmata o politica care descrie procedurile de perchezitie.

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.

Controalele cu detectoare de metale sunt masuri de securitate permise atunci cand este in vigoare o politica a scolii care reglementeaza astfel de perchezitii si cand a fost emis un preaviz (de exemplu printr-un afis) cu privire la faptul ca vor avea loc astfel de controale.

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.

Proceduri prestabilite ar trebui sa reglementeze utilizarea altor metode de detectare a metalelor folosite pentru a controla elevii, iar utilizarea acestor metode necesita existenta unei suspiciuni rezonabile.

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.

Fotografierea in spatii publice, cum ar fi autobuze, holuri, sali de clasa si cafenele este permisa.

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

In cazul in care un elev are asteptari privind respectarea intimitatii intr-o anumita zona, utilizarea camerelor este in mod normal inacceptabila.

Camerele plasate in vestiarele baietilor si fetelor nu poate fi rezonabila atunci cand elevii asteapta in mod justificat un anumit grad de intimitate, iar problema ar putea fi abordata si altfel.

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.

Regulile trebuie sa se afle intr-o relatie rezonabila cu misiunea educationala urmarita intr-un mediu educational sigur.

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

Activitatile de investigare si perchezitie desfasurate de politie intr-o scoala trebuie sa fie in mod obiectiv rezonabile, date fiind toate circumstantele, pe baza unei evaluari independente a elementelor specifice si identificabile in aceasta situatie.

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.

Scolile au responsabilitatea de a garanta siguranta profesorilor si elevilor si au obligatia de a lua masuri in privinta tinerilor indisciplinati, care pot pune in pericol siguranta celorlalti copii.

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.

Scolile dispun de o mare flexibilitate in a determina si stabili metodele disciplinare, pot raspunde prin mijloace de disciplinare la amenintarile de violenta din partea elevilor, si pot suspenda sau exmatricula elevi pentru infractiuni la adresa regulilor scolii, cu conditia ca aceste reguli sa respecte drepturile fundamentale, cum ar fi dreptul la o judecata echitabila, protectie egala, libertatea de exprimare, absenta discriminarii azate pe rasa, religie, gen, handicap sau origine nationala.

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.

Metodele disciplinare folosite de scoli includ detentia, eliminarea de la ore sau izolarea, programe educationale alternative, interzicerea participarii la activitati scolare, mustrare verbala, suspendare si exmatriculare.

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.

Studentii pot fi sanctionati disciplinar pentru comportamentul in scoala si in afara scolii, in cazul in care scoala poate demonstra ca actiunile elevilor au un efect direct si imediat asupra disciplinei scolare si / sau sigurantei elevilor si a personalului.

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.

Motivele de suspendare sau exmatriculare ale elevilor sunt:

- elevi gasiti cu o arma sau cu orice alt obiect periculos in incinta scolii,
- amenintari de violenta din partea elevilor, inclusiv atacuri care nu implica utilizarea unei arme.

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.

Anumite cerinte procedurale trebuie sa fie urmate in cazul in care un elev este suspendat pentru o perioada semnificativa de timp sau exmatriculat din scoala. In general, exmatricularea este justificata numai in cazul unor abateri repetate sau extreme, al unui atac la adresa unui coleg sau profesor, al consumului de droguri si posesiei sau utilizarii de arme.

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.

Protectia procedurala include:

- Preaviz pentru elev si parinti;
- O audiere echitabila si impartiala;
- Dreptul de a fi reprezentat de un aparator;
- Timp rezonabil pentru pregatire;
- Posibilitatea de a examina dovezi;
- Posibilitatea de a examina sau prezenta martorilor;
- Procedura de inregistrare;
- Decizie baza unor dovezi substantiale.

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.

In general, notificarea si audierea trebuie sa preceada eliminarea unui elev din scoala, cu exceptia cazului in care elevul prezinta un pericol iminent pentru el/ea sau siguranta altora sau in cazul unui comportament care perturba grav atmosfera academica a scolii, pune in pericol alti elevi, profesori sau angajati, sau cauzeaza daune.

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 situatii de urgenta, poate fi folosita o abordare in doua etape:

- prima data, trebuie impusa imediat o suspendare temporara sau o exmatriculare;
- apoi, trebuie pusa in aplicare o exmatriculare permanenta dupa un preaviz si o audiere corespunzatoare, furnizate cat mai curand posibil.

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.

## CONCLUZIE

Politicile scolare ar trebui sa vizeze deosebita in copii a respectului pentru lege si pentru demnitatea si integritatea tuturor membrilor comunitatii scolare.

Adevarata justitie priveste mai putin efortul de a da pedeapsa adecvata, ci mai mult pe cel de a actiona pentru a reface un mediu educational sigur si pasnic.

## CONCLUSION

School policies should be aimed at awakening the child 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.