

## PROCEDURE 22: SURRENDER AND RETENTION OF PROPERTY AND SEARCHES OF STUDENTS

All schools have to provide a safe physical and emotional environment for students and staff. Schools can search and confiscate student property providing the school complies with the legislation and can justify the actions taken as reasonable and necessary to keep the environment safe.

[Surrender and retention of property and searches - guidelines – Education in New Zealand](#) (Ctrl+Click)

### Why have this procedure?

To meet legislative requirement relating to surrender and retention of property and searches of students by the principal, teachers, and authorised staff members [Education and Training Act Section 106, and the *Education Surrender, Retention and Search Rules 2013*]

Whareorino School is required to provide a safe physical and emotional environment for students and staff. The purpose of this procedure is to provide guidelines for the use of surveillance, search and seizure techniques and processes in situations where the Principal has reasonable grounds to suspect that there is a risk to the school's safe and secure learning environment.

In exercising these powers, schools must act reasonably, in good faith and in the least intrusive manner to achieve a safe environment. This enables the School to be consistent with its obligations under the Human Rights Act 1993 to protect students from discrimination and under the New Zealand Bill of Rights Act 1990 to ensure there are guards against unreasonable search and seizure.

### What is it for and how do we do this?

Teachers will continue to use appropriate and usual behaviour management practices that enable them to teach and students to learn. This will deal with most cases that require teacher intervention; however, there are certain occasions that require a different response.

To ensure that Whareorino School is a safe and secure learning environment for all students and staff, it is important to ensure that students are not in possession of items that are harmful, likely to endanger safety or will detrimentally affect the learning environment.

This includes physical items and cyber-bullying material stored on computers, USB memory sticks, cell phones and other electronic media.

If a teacher or authorised staff member believes on reasonable grounds that a student has an item that is harmful, likely to endanger safety or detrimentally affect the learning environment, then a student can be required to produce, reveal, surrender the item. This includes the device on which the item is stored

There is a "Schedule of Words Explained" section that explains the above underlined items at the end of this procedure.

### If the item is not considered harmful:

If it is surrendered, it may be retained, stored, disposed of, passed to another person, or returned.

If it is not surrendered, the School's usual disciplinary or behaviour management practices should be used.

### **If the item is considered harmful:**

If it is surrendered, it may be retained, stored, disposed of, passed to another person or returned. See the below section on what this means.

If it is not surrendered, a teacher or authorised staff member may either:

1. Deal with it under the School's usual disciplinary or behaviour management practices or require a student to remove specified clothing or surrender the bag or container.
2. Before making the requirement to remove specified clothing or surrender the bag or container, the teacher or authorised staff member should attempt to obtain permission of another member of staff to witness the making of the requirement.
3. After making the requirement above in 2:
  - a. If the requirement is complied with, the teacher or authorised staff member can search the removed clothing or the surrendered bag or container. A search must not be conducted while the item is being worn; or
  - b. If the student refuses, the School's usual disciplinary or behaviour management practices should be used.
4. If the item is found as a result of 3a:
  - a. It may be retained, stored, disposed of, passed to another person or returned; and
  - b. The removed clothing or the surrendered bag or container should be returned.

### **Retaining the item, storing it, returning it, passing it on, or disposing of it:**

Once an item is in possession of a teacher or authorised staff member, taking all care with the item and as soon as practicable, it should be given to the Principal for a decision to be made as to what happens to it.

If a decision is made to retain it, it must be held in a secured place that can only be accessed by the Principal. A decision must then be made as soon as practicable to further retain it, pass it on, dispose of it or return it.

At any time, the item may be returned to the student, parent of the student, or where neither is the owner of the item, the owner of the item.

Where it is deemed appropriate, the item may be passed on to the Police or other appropriate agency that has responsibility for the relevant item. This will depend upon whether the item is considered to continue to pose harm to the staff and/or students.

Where a decision is made to dispose of the item, it must not be sold. Disposal may include destruction or deletion, where it relates to an electronic image. An electronic device must not be disposed of.

A detailed record must be kept of every decision made to retain, store, return, pass on or dispose of an item surrendered or retained as a result of a search.

### **Schedule of Words Explained:**

**Authorised staff:** a person that is an employee of the School Board, but not a teacher, that is given authorisation by the Board to exercise specified powers under Board procedure, delegated authority, or this procedure. The Principal will decide who can be authorised staff;

**Harmful:** poses an immediate threat to the physical or emotional safety of any person;

**Endanger safety:** considering the particular circumstances of the case, is that item or object more likely than not going to endanger safety?

**Detrimentially affect the learning environment:** has a negative or disruptive effect on learning or general discipline;

**Require:** a formal request by a teacher or authorised person to comply with an instruction

### **Related Documents**

- Procedure 01: Concerns and Complaints
- Procedure 17: Student Behaviour Management
- Procedure 19: Stand-downs, Suspensions and Exclusions
- Procedure 20: Physical Restraint of Students
- Procedure 21: Prohibiting Use of Force
- Procedure 27: Health and Safety
- Guidelines for Registered Schools in New Zealand on the Use of Physical Restraint (August 2017)
- Guidance for New Zealand Schools on Behaviour Management to Minimise Physical Restraint. (Ministry of Education – Oct 2016)
- Education and Training Act 2020

[Education and Training Act 2020: Section 106](#)

Ctrl + Click to link to the legislation.

[Guidelines for the surrender and retention of property and searches](#)

[PDF, 983 KB]



PRINCIPAL

Dated: February 1, 2022