



## **POLICY: SEARCH AND SEIZURE**

### **Definitions**

1. For the purposes of this policy:
  - 1.1. "dangerous object" means:
    - 1.1.1. any explosive material or device;
    - 1.1.2. any firearm or gas weapon;
    - 1.1.3. any article, object or instrument that may be employed to cause bodily harm to a person or damage to property, or to render a person temporarily paralysed or unconscious;
    - 1.1.4. any other object similar in nature to the objects listed above.
  - 1.2. "illegal drug" means any unlawful substance that has a psychological or physiological effect; or any substance having such effect that is possessed unlawfully;
  - 1.3. "school activity" includes any educational, cultural, recreational, sporting or social activity of the school within or outside the school premises; and
  - 1.4. "illegal activity" means the wilful possession of an illegal drug, dangerous object or stolen item.
  - 1.5. "digital offenses", include any electronic item or artifact which may contain, or comprise the means to commit "digital offenses"; inter alia illegal or unethical devices, files, programs, data or information present on campus or on Kingswood administered systems, including, but not limited to: pornography, cyber-bullying, copyright infringement/piracy, plagiarism, "hacking" tools, or any form of device, data, information, or software that could be used in an offence\* or be used to store, share, transmit or utilise such prohibited goods.
  - 1.6. All of the above will be henceforth further be considered as "prohibited goods" for the purposes of this Policy.

### **Prohibition**

2. No person may:
  - 2.1. allow any dangerous object to be brought onto school premises or to a school activity;

- 2.2. carry any dangerous object in school premises or at premises at which a school activity is carried out;
- 2.3. store any dangerous objects in school premises or premises at which a school activity is carried out;
- 2.4. possess illegal drugs in contravention of the Substance Abuse Policy;
- 2.5. possess any stolen item on school premises or at a school activity.
- 2.6. possess any item containing or comprising copyright infringing materials, pornography, hacking tools, or other software, data or information that is illegal and/or unethical, particularly that which in any other form is already covered in this or any other applicable Policy.
- 2.7. All of the above will also be considered as "prohibited goods" for the purposes of this Policy.

### **Search and Seizure**

3. The Head or his/her delegate may, at random and without a warrant, search any pupil or group of pupils, or the property of a pupil or group of pupils, for any prohibited good, dangerous object, stolen item or illegal drug (hereafter, collectively referred to as "prohibited good") if he or she has a reasonable suspicion that:
  - 3.1. a prohibited good may be found on school premises or during a school activity; or
  - 3.2. one or more pupils on school premises or engaged in a school activity are in possession of a prohibited good.
4. The Head or his/her delegate may without a warrant seize any prohibited good found on school premises or during a school activity, or found on any person who is on school premises or engaged in a school activity.
5. A search may only be conducted after taking into account all relevant factors, including:
  - 5.1. the best interest of the pupils in question or any other pupil in the school;
  - 5.2. the safety and health of the pupils in question or of any other pupil at the school;
  - 5.3. reasonable evidence of illegal activity; and
  - 5.4. all relevant evidence received (which may include rumours, with supporting evidence).
6. A pupil's person and/or personal effects (for example book bag, blazer, sports bag etc.) may be searched whenever the Head or his or her delegate has a reasonable suspicion to believe that the pupil is in possession of a prohibited good.
7. Student lockers are the property of the school and remain at all times under the control of the school. Students are, however, expected to assume full responsibility for the security of their lockers. Periodic general inspections of lockers may be

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conducted by the Head or his or her delegate for any reason, and at any time, without notice, without student consent, and without a search warrant.

8. Students are permitted to park on school premises as a matter of privilege, and not of right. The Head or his or her delegate may conduct routine patrols of student parking lots and inspections of the exteriors of student vehicles on school property. The interiors of student vehicles may be inspected whenever the Head or his or her delegate has reasonable suspicion to believe that a prohibited good is contained inside such a vehicle. Such patrols and inspections may be conducted without notice, without student consent, and without a search warrant.

#### **The procedure for conducting a search**

9. All searches contemplated in this policy will be conducted in a manner that is reasonable and proportional to the suspected illegal activity.
10. Where a search entails a body search of a pupil (see 12 below), such search may only be conducted by the Head, if he or she is the same gender as the pupil, or by the Head's delegate, who must be the same gender as the pupil. A second staff member of the same gender must be present as witness.
11. The types of searches that may be conducted by the Head or his or her delegate are set out below.

#### **The procedure to be followed in a body search of a pupil**

- 11.1. A body search includes a visual search and a "pat down" body search.
- 11.2. Any body search will be conducted in a private area and not in view of another pupil.
- 11.3. The pupil will be requested to place loose items from pockets and clothing on a table or desk for inspection. To facilitate the pat-down search, the pupil must remove all articles from his or her pockets and remove any secondary outer clothing (e.g. blazer, sweater, head coverings etc) worn over the primary clothing.
- 11.4. The person conducting the search will, wherever possible, wear latex gloves and use an open hand to pat down the primary layer of clothing of the pupil. Any such search shall be carried out in a manner as is consistent with discovering anything that may have been concealed.

#### **The procedure to be followed in a strip search of a pupil**

- 11.5. A strip search involves the removal and search of clothing and a visual examination of the undressed pupil, to verify if any prohibited good is being concealed.
- 11.6. A strip search may be conducted if there are reasonable grounds for suspecting that the strip search will reveal evidence that the pupil is concealing a prohibited good that could not be obtained by conducting a body search.

- 11.7. Strip searches will not extend to the removal of the pupil's underwear, but may extend to the readjustment of the pupil's underwear, by the pupil.
- 11.8. In any strip search, the pupil will not be touched, and the search will not extend to a body cavity of the pupil.

**The procedure to be followed in conducting a search of a minor under the age of 12 years**

- 11.9. Consent will be obtained from the parent or guardian for a body search or a strip search that is required in respect of a minor under the age of 12.
- 11.10. The parent or the guardian of the pupil must be present during the search, if practical and if requested by the parent or guardian. If the parent or guardian of a pupil is present, he or she may conduct the search if he or she wishes.

**The procedure to be followed in conducting a search of digital and electronic media/artifacts**

- 11.11 Any staff member may seize any electronic item reasonably considered to contain prohibited goods, as per the general provisions and limitations in Section 5, at any time. Likewise, they may request the IT department to put a "hold" on or save log files or other central records pertinent to a possible investigation; this must be done as soon as practically possible after the alleged infraction is noted.
- 11.12 Digital data shall be considered as one or more "item(s)" for the purposes of this Policy.
- 11.13 It is recommended that physical artifacts be turned over to the Head or other competent person to inspect and catalogue. Typically, this will mean the College Head sends a written request for the head of the College's IT Department to conduct the search of seized item(s), within the bounds in 11.14, below, in the strictest confidence.
- 11.14 Searches of seized items must be bounded to a reasonable selection of file types, keywords and/or other metadata used to narrow down searches only to pertinent data/information. In particular, we will not engage in "fishing expeditions" to find "anything at all" to build a case - pre-existing evidentiary standards, limits and appropriate boundaries as conceived within this document must be applied mutatis mutandis to digital media, devices and artifacts.
- 11.15 The user/owner of the device MUST hand over any account credentials, encryption keys, passwords, lock codes or disclose any other method(s) used to obfuscate digital evidence or bar access to a device or digital artifact in the process of a legitimate investigation. Where this is refused, the evidence will be taken to be present and sufficiently incriminating as to be de facto "in evidence" and allowable in the process of deciding the outcome of the disciplinary process; this is because some forms of encryption are effectively unbreakable, and the school otherwise lacks the ability to conduct due process investigations. Where such unlock processes include biometric data, the pupil may need to unlock the device with their biometric data; pupils may further be compelled to do so, where exposure of such biometric data are not intrusive (i.e. voiceprint, facial recognition, fingerprint or retinal scans); once

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the device is unlocked, the head of IT will then typically disable any biometric lock(s) whilst the search is underway.

- 11.16 Recovered evidentiary materials will typically be copied and stored on another WORM medium, aside from being left on the device or system initially holding such evidence, such as CD-R or DVD-R, for long term record, where one is needed; they will be treated as all other items of an evidentiary nature are. Where the recovered items are substantively illegal, they may need to be destroyed once a disciplinary outcome is concluded, or may need to be turned over to legal authorities. In some cases, holding an electronic file or printed list of filenames and related metadata referring to the prohibited good(d) may be the more prudent process, and all parties shall have a "good faith" understanding that these provide suitable evidence of presence of the prohibited good.
- 11.17 Similar restrictions and procedures apply to digital accounts held by the school (inter alia on internal file servers, email, or other "cloud" services). "Targeted", intentional searches of such locations will only ever be conducted on written instruction from the College Head, although "holds" may be requested by any delegate of the Head at any time.
- 11.18 Pupils and parents should be aware that information travelling across the Internet is automatically logged, and "illicit digital activities" will be flagged by automated systems, which are investigated by IT. Such infringements will be noted and entered into the appropriate disciplinary processes. Furthermore, within normal systems administration tasks, such offenses may come to light, which must similarly be investigated.
- 11.19 The receipt of "cease and desist" notices from copyright holders will need to be taken seriously, and the outcome of this will typically be a schedule 3 disciplinary hearing.
- 11.20 Pupils suspected to be engaged in digital offenses that are reasonably suspected to have taken place, and for whom destruction of evidence through continued access to digital media can be expected, shall have all personal electronic devices immediately confiscated from their person, and that pupil may need to be held (likely in the Head's, or Houseperson's Study, under appropriate supervision, or any other suitable location), until appropriate evidence can be obtained and duly catalogued, as per the above procedures.

## **12. Procedure to be followed when a prohibited good is found on a pupil**

- 12.1. Any prohibited goods that are seized will be labelled with full particulars, including:
- 12.2. the name of the pupil in whose possession it was found;
- 12.3. the time and date of the search and seizure;
- 12.4. an incident reference number;
- 12.5. the name of the person who searched the pupil;
- 12.6. the name of the witness present at the search; and

- 12.7. any other details that may be necessary to identify the item and the incident.
13. Any seizure of a prohibited good will be recorded in a school record book and the prohibited good will be handed over to the South African Police Service, save that where a stolen item is recovered and no criminal charge against the pupil in whose possession the stolen good was found is contemplated, the stolen item may be returned to its owner.
14. A pupil may be subjected to disciplinary proceedings if a prohibited good is found in his or her possession.