

## REACH FOR HELP

There are a number of organisations that may be able to give you extra support.

- **Ministry of Education** provides guidance on school disciplinary matters:  
[www.education.govt.nz/](http://www.education.govt.nz/)
- **Human Rights Commission** for complaints about discrimination:  
[www.hrc.co.nz](http://www.hrc.co.nz)
- **Ombudsman** help with complaints against government agencies:  
<http://www.ombudsman.parliament.nz>
- **Strengthening Families** can help in meetings about your child with the school:  
[www.strengtheningfamilies.govt.nz](http://www.strengtheningfamilies.govt.nz)

## MORE INFORMATION

- **Ministry of Education:**  
<https://education.govt.nz/school/managing-and-supporting-students/student-behaviour-help-and-guidance/searching-and-removing-student-property/>
- **New Zealand Secondary Principals' Council:**  
<http://www.nzspc.org.nz/nzspc-resources/47-search-seizure-guidelines-for-schools>



# YouthLaw

Free legal help throughout Aotearoa

YouthLaw provides free legal help for young people under the age of 25. We have special expertise in the area of education law, and can give advice on school disciplinary processes. If you know a young person who needs assistance, please get in touch with us.

Visit our website:  
[www.youthlaw.co.nz](http://www.youthlaw.co.nz)

Contact YouthLaw  
for further free help or advice:

Free phone: **0800 UTHLAW**  
(0800 884 529)  
Email: [info@youthlaw.co.nz](mailto:info@youthlaw.co.nz)



## SEARCHES at SCHOOL

Guidelines and Protections  
under the Education Act 1989

*A guide for parents and  
supporters of young people*



## PROTECTION AGAINST UNREASONABLE SEARCH

School students—like the rest of the population—are protected against **unreasonable search and seizure** under the New Zealand Bill of Rights Act 1990, s21. However, the Education Act 1989 allows schools to **ask students to hand over** or **search student's property** in certain circumstances.

## EDUCATION ACT GUIDELINES

The guiding principles are:

1. All schools must provide a safe physical and emotional environment for students and staff.
2. Parents, students and the public have a legitimate expectation that schools be free from drugs, weapons, alcohol and cyber bullying.
3. Schools must act reasonably and in good faith when using their powers to search and retain property.
4. Students are protected against unreasonable search and seizure under the NZ Bill of Rights Act 1990, s21.

## HANDING OVER AN ITEM

School staff must have a **reasonable belief** that a student possesses an item that meets **one of three criteria**:

### 1. Likely to endanger the safety of others

Almost any object could be used as a weapon but staff will use their judgement to decide if it is likely to endanger safety in the circumstances. For example:



- Bullying texts,
- Drugs,
- Laser pens,
- Scissors,
- Alcohol.

### 2. Likely to detrimentally affect the learning environment

Anything that disrupts the flow of teaching and learning may have a detrimental effect on the learning environment. For example:

- Tapping of a ruler,
- Loud mobile phones,
- A vehicle which a student brags about.



### 3. Harmful

Something that a staff member reasonably believes to **pose an immediate threat to the physical or emotional safety of any person**. For example:

- Firearms (loaded or not),
- Bullying texts,
- Drugs,
- Weapons,
- Gang colours or insignia, and
- Sexually explicit photographs of a student.



This is the only type of item for which a search may be conducted. (see below)

## CONDUCTING A SEARCH

Searches may be conducted for an item considered to be **harmful**: something that a staff member reasonably believes to **pose an immediate threat to the physical or emotional safety of any person**. Examples of searches include:

- Requiring a student to hand over material on a computer or mobile phone
- Requiring a student to empty their pockets.

**A search must be carried out in a manner that gives the student the greatest degree of privacy and dignity.**

## SEARCH REFUSAL

If a student refuses the request to hand over an item, the school's usual disciplinary or behaviour management practices may apply. The staff member should explain why an item has been confiscated.

### What is not allowed:

- A whole class cannot be required to empty their pockets/bags etc.
- Staff can only search the pockets of outer clothing after it has been removed (e.g. a jacket taken off)
- Clothing must not be searched while the student is wearing it.
- A staff member cannot use physical force against a student.
- A staff member cannot have a dog with them
- A search cannot be carried out carry in view of any other person (unless there is no other option).



## RETAINED, RETURNED OR DISPOSED OF

A staff member must decide whether an item should be retained, returned or disposed of.

If retained, the school must take reasonable care of the item and securely store it if they keep it overnight. The item may be disposed of if it is considered appropriate, **but an electronic device cannot be disposed of.**