



## SURRENDER, RETENTION AND SEARCH GUIDELINES

**Preamble:** These guidelines are in accord with Cambridge Middle Student Welfare Policy as approved by the **School Board in July 2020.**

**Guidelines:**

- .1 The primary purpose of these Guidelines is to safeguard those powers to deal with items and devices and to appropriately undertake searches conferred on schools by sections 139AAA and 139AAB of the Education Act 1989.
- .2 It is important and necessary that Boards of Trustees keep certain documents for inspection at school.
- .3 It is important to note that both teaching and non-teaching staff may be authorised to deal with items and devices or undertake searches in an approved and appropriate manner.
- .4 There are considerations that must be taken into account by persons deciding how an item or a device is to be dealt with.
- .5 There is a list of authorised staff members for such purposes.
- .6 Before you deal with any item that may endanger the safety of persons or detrimentally affect the learning environment, you need to be familiar with everything below. This also applies to computers or electronic devices on which items are stored.
- .7 Here follows an extract (Points 3 to 11) from the **Education Rules 2013 (Surrender, Retention and Search)** which outlines the process to be followed:

### **3. Interpretation**

*In these rules,*

**Act** means the Education Act 1989

**authorised staff member** has the same meaning as in section 139AAA(9) of the Act

**Board** means—

(a) a school board constituted under Part 9 of the Act or a delegate of that board

(b)[Revoked]

**device** means a computer or other electronic device that is not, in itself, an item but on which an item is stored

**item** means an item to which section 139AAA(1) of the Act applies or that is a harmful item within the meaning of section 139AAB(6) of the Act taken under the Act or taken, in relation to any item or device, means any item or device that has been surrendered under section 139AAA(2) or (3) of the Act or seized under section 139AAB(4) of the Act

**teacher** means—

(a) a person employed at a State school or at a partnership school kura hourua in a teaching position (within the meaning of section 120 of the Act); or

(b) a person to whom the sponsor of a partnership school kura hourua has assigned any of the functions of the principal.

*Rule 3 board paragraph (a): amended, on 24 October 2018, by section 24 of the Education Amendment Act 2018 (2018 No 40).*

*Rule 3 board paragraph (b): revoked, on 24 October 2018, by section 24 of the Education Amendment Act 2018 (2018 No 40).*

#### **4. Information to be made available**

*Every board must ensure that the following documents are available for inspection at the school:*

- (a) any guidelines issued by the Secretary under section 139AAI of the Act; and*
- (b) the names and positions of authorised staff members.*

#### **5. Authorisation of staff members who are not teachers**

*(1) Every authorisation, under section 139AAA of the Act, given by a board to a staff member who is not a teacher must be in writing.*

*(2) The authorisation must specify whether the staff member is authorised to exercise the powers—*

- (a) under section 139AAA of the Act; or*
- (b) under section 139AAB of the Act; or*
- (c) under both sections 139AAA and 139AAB of the Act.*

*(3) The board must give the staff member a copy of the authorisation.*

*(4) As soon as practicable after the staff member receives the authorisation, the staff member must give the board a written acknowledgment of its receipt.*

*(5) The board may, by written notice to the staff member, revoke an authorisation at any time.*

#### **6. Considerations to be taken into account in dealing with items or devices taken under Act**

*(1) A person must take into account the considerations specified in subclause (2) when the person decides, under the Act or these rules, whether—*

- (a) an item or a device taken under the Act is to be retained, returned to a student, passed to another person, or passed to another agency; or*
- (b) an item taken under the Act is to be disposed of.*

*(2) The considerations are—*

- (a) the health and safety of people;*
- (b) the apparent value of the item or device concerned;*
- (c) the person believed to be entitled to the possession of the item or device concerned.*

#### **7. Retention and storage of items or devices taken under Act**

*(1) This rule applies to any item or device that has been taken under the Act and is to be retained.*

*(2) Every teacher and every authorised staff member who is in possession of the item or device must take all reasonable care of the item or device while it is in his or her possession or under his or her control.*

*(3) The teacher or authorised staff member who takes the item or device may—*

- (a) keep the item or device in his or her possession; or*

- (b) give the item or device to another teacher or to another authorised staff member; or*
- (c) arrange for the item or device to be placed in secure storage.*
- (4) A teacher or other staff member of a school who is in possession of an item or a device that is to be retained overnight or for a longer period must ensure that the item or device is placed in secure storage.*

### **8. Returning items or devices to students or passing them to other persons or agencies**

- (1) If a teacher, an authorised staff member, or the board determines that, in light of the considerations specified in rule 6(2), an item or a device taken under the Act can be appropriately returned to the student from whom it was taken, the item or device must be made available to the student as soon as practicable after that determination.*
- (2) A teacher, an authorised staff member, or the board may, if satisfied that it is appropriate to do so in light of the considerations specified in rule 6(2), pass the item or device to—*
  - (a) another person, such as a parent or caregiver or the person believed to be entitled to the possession of the item or device; or*
  - (b) an agency, such as the New Zealand Police or the New Zealand Customs Service.*

### **9. Disposal of items**

- (1) An item taken under the Act may be disposed of if a teacher or an authorised staff member considers that it is appropriate to do so in light of the considerations specified in rule 6(2).*
- (2) No item taken under the Act may be disposed of by selling the item.*

### **10. Record of retentions**

- (1) Each board must ensure that a record is made and kept of every item or device taken under the Act that is retained—*
  - (a) for 2 nights, each of which follows a day on which the school is open for instruction; or*
  - (b) for a longer period.*
- (2) Every record must contain the particulars that the board prescribes from time to time, which must include the following:*
  - (a) the date on which the item or device was taken:*
  - (b) the name of the student from whom the item or device was taken:*
  - (c) the name of the teacher or authorised staff member who took the item or device.*

### **11. Record of searches of students' clothing, bags, or other containers**

- (1) The board of each school must ensure that a record is made and kept of every search that is carried out, under section 139AAB of the Act, of a student's clothing, bags, or other containers.*
- (2) Every record must contain the particulars that the board prescribes from time to time, which must include the following:*
  - (a) the date on which the search was conducted:*
  - (b) the name of the student whose belongings were searched:*
  - (c) the name of the teacher or authorised staff member who conducted the search:*
  - (d) where applicable, why it was not practicable to comply with the relevant requirements stated in section 139AAC(2) and (3) of the Act in any case where the search—*

*(i) was not carried out by a teacher or an authorised staff member of the same sex as the student:*

*(ii) was not carried out in the presence of another teacher or authorised staff member of the same sex as the student:*

*(iii) was carried out in the view of any person other than the teacher or authorised staff member carrying out the search, the student, and another teacher or authorised staff member.*

*(3) Any record must be kept for a minimum period of 7 years after it is made*

**If you are ever unsure of what to do, check with the Principal first.**

**Review:** 2023

These Guidelines will be reviewed in accord with the review of the Staff Policy.