

*CLOSED*

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**ORIGINAL**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

FRED WELLS, a minor, by his next friend  
SHARON KELSO, WESLEY RAY, a minor,  
by his next friend MERUDIETH RAY, and CATHY  
HOLMES, a minor, by her next friend  
CANDICE HOLMES,

Case No.: 04-60112  
JUDGE MARIANNE O. BATTANI

Plaintiffs

vs.

CITY OF DETROIT, DETROIT PUBLIC  
SCHOOLS, UNKNOWN DETROIT  
POLICE OFFICERS AND UNKOWN  
DETROIT PUBLIC SCHOOL SECURITY  
OFFICERS,

Defendants.

**FILED**  
JUN 09 2006  
CLERK'S OFFICE  
U. S. DISTRICT COURT  
EASTERN MICHIGAN

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**ORDER OF JUDGMENT**

At a session of said Court, held in the  
United States District Court,  
Eastern District of Michigan  
Southern Division

on **JUN 09 2006**

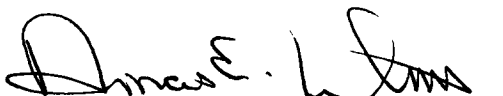
PRESENT: HON MARIANNE O. BATTANI  
HON MARIANNE BATTANI

The parties and their counsel have agreed to the entry of this Order of Judgment in the amount of \$22,500.00 inclusive of all interest and costs to Plaintiffs.

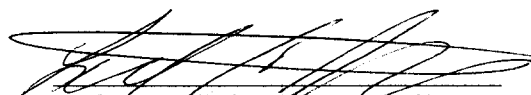
NOW THEREFORE, IT IS ORDERED AND ADJUDGED:

1. Judgment is entered in favor of Plaintiffs against the Defendant Detroit Board of Education in the sum of \$22,500.00 this amount is inclusive of all costs and shall not bear interest.
2. This Order constitutes a Judgment described in Sections 27A.6094 and 27A6097 of the Revised Judicature Act, being MCL 600.6094 and 600.6097, and Section 1643 of the Revised School Code, being MCL 380.1643 and the Defendant shall have the right to utilize the means of raising money described in Section 27A6094, 27A6097 or Section 1643 to and including Section 1644 to pay or finance all or a portion of the cost of this Judgment, [including the issuance of general obligation bonds,] payable from the general funds of the Defendant and the proceeds of any taxes which the Defendant may be authorized to levy within statutory and constitutional limitations.
3. This Order of Judgment resolves the last pending claim and closes the case.

4. The Defendant DETROIT PUBLIC SCHOOLS agree to enact, adopt and follow the amendments to its policy governing student searches inside all school buildings and facilities. The amended policy is attached hereto and incorporated herein by reference. In exchange for the payment stated above and the Defendant's agreement to enact, adopt and follow the amended search policy the Plaintiffs agree to terminate this litigation and to relinquish any and all further claims against the Defendant arising from the incident giving rise to the litigation.
  
5. The Plaintiffs' claims against Defendant CITY OF DETROIT were previously and independently settled and this consent judgment resolves all of the remaining claims.



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HON MARIANNE BATTANI

## **Detroit Public Schools Policy Manual**

### **Policy: Search and Seizures of Students**

Introduction: The Board of Education recognizes that the educational environment is an important base in our students' ability to learn. A grave danger to that environment, as well as to the safety of our students and staff, is the reality of drugs, weapons, and other contraband both inside our schools and the surrounding neighborhoods. This policy is designed to ensure that our students can learn in an environment that is both conducive to education and that will ensure their safety as well as the safety of our staff and visitors. Toward those ends, the Board reserves the right to conduct searches of students and their personal effects, to conduct metal detector screenings of students, to search and inspect property owned or leased by the Board, including but not limited to the desks and lockers that are assigned to our student, and to seize any contraband that is revealed through the use of such searches. All such searches shall be undertaken consistent with the law, this policy and the United States Constitution.

This policy applies to mass searches conducted by Detroit Public School officials and employees. Any search initiated, instigated or requested by the Detroit Police Department or any other Police Department shall be governed by the legal standard applicable to police searches.

#### Types of Searches:

##### 1). Individualized Student Searches

School officials possess the authority to search individual students and their personal effects (including but not limited to clothing, book packs, book bags, purses, vehicles that are parked on property owned or leased by the Board of Education, and similar items). The search will only be conducted if school officials have a reasonable suspicion that:

- a). there has been a criminal infraction or that there is a violation of a school policy or rule governing student behavior or discipline, AND
- b). the individual who is the subject of the search participated in the infraction or violation, AND
- c). evidence of the infraction or violation, or the proceeds there from, is in the possession of the student in the location to be searched.

Reasonable suspicion can be based on direct observations of the student by school officials (including but not limited to seeing a gun shaped bulge in clothing, hearing the sound of a pager or cell phone, or smelling the

aroma of marijuana). Reasonable suspicion may also be based on information provided to school officials by others (including school staff, students, volunteers and visitors) indicating that the student in question has contraband in his or her possession. A mere hunch or a generalized suspicion does not constitute reasonable suspicion nor do they provide a sufficient basis for searching an individual student.

Once a school official or a member of the DPS Public Safety unit has determined that a student should be searched for contraband based upon a reasonable suspicion, the following guidelines apply. A search should be no more intrusive than is necessary. If a search demands more than a "pat-down" or the emptying of pockets and the removal of coats, jackets, shoes and/or socks, school officials should contact the Office of General Counsel immediately.

Individual searches should always be conducted by a school official of the same sex as the student being searched and to the extent practicable in the presence of another same-sex school official who can act as a witness.

The search may be done outside the view of any person who is not directly involved in the search. Such searches shall be conducted by DPS Public Safety Officers, school officials or school staff. A written report shall be prepared regarding any individualized student search and forwarded to the Public Safety Department.

## 2). Desk or Locker Searches

Desks and lockers are the property of the Board of Education. Students are allowed to use this property; but at all times, desks and lockers remain under the control and ownership of the Board of Education. As a condition of their use of Board property, students assume full responsibility for the security of the locker and/or desk assigned to them.

The Board of Education reserves the right to conduct random searches of desks and lockers. These searches may be conducted at anytime for any reason, without notice, without student consent and without reasonable suspicion or a search warrant. However, a student's personal items (such as purses, book bags, coats, etc.) may not be searched without reasonable suspicion that a search will uncover contraband or evidence of wrongdoing on the part of an individual student.

The following should be used as guidelines for the search of lockers and/or desks:

- a). Locker and desk searches are best performed when students are not present, such as prior to the opening of school, after school or on the weekend.

b). Locker and desk searches may include the use of trained dogs or other trained animals.

c). Students should be alerted through their student handbooks or by other written materials that at any time their lockers and desks can be searched.

d). Locker and desk searches may be conducted by school officials, with or without the assistance of Detroit Public School Public Safety employees.

3). Metal Detector Screenings

a). Introduction: The purpose of a metal detector scan is to prevent weapons and/or contraband from entering the schools. The Detroit Public Schools reserves the right to use, but it is not limited to stationary walk through metal detectors, hand-held "wand" metal detectors, portable walk through metal detectors, and x-ray machines. All persons who enter into Detroit Public Schools buildings are subject to a metal detector scan. The Board of Education has authorized several types of metal detector screenings.

1). "As Needed" Screenings: The Board's Chief Executive Officer, his/her designee, or school official may also authorize metal detector screenings on days on which special events such as athletic events or visits by dignitaries are held. As needed screenings may also be conducted to address safety concerns.

2). Daily Screenings: The Board's Chief Executive Officer, his/her designee, or school officials may also authorize daily metal detector screenings of students to ensure the safety and security of students, staff, volunteers and visitors.

b). Public Notice: Each entrance of Detroit Public Schools' property shall annually post a sign stating the equivalent of the following statement: "Any person entering this building may be subject to search." However, the removal of the sign through vandalism or any other means shall not waive the Detroit Public Schools ability to conduct any subject searches contained in this policy.

c). Scanning Procedures: Separate lines should be available for male and female students. Male DPS Public Safety officers should administer searches for male students. Female DPS Public Safety officers staff should administer searches for female students.

- 1). Space should be provided for students waiting to be searched. The space should allow for the maintenance of student order, as well as preventing students from by-passing the search procedures.
  - 2). All entrances that are not used during a metal detector screening should be locked in such a way that they will prevent entry from the outside. The entrances should remain operable from the inside of the building and must comply with Fire Code regulations.
  - 3). Prior to passing through a metal detector, individuals should be instructed to place their metal possessions into a separate container. Those conducting the metal detector screenings may also ask individuals to remove any other personal items (coats, book bags, purses, etc.) so they can be scanned by a hand held metal detector.
  - 4). If the alarm of a metal detector sounds, that shall be construed as reasonable suspicion for an individualized pat-down search or for the search of the individual's separate possessions (such as a book bag, purse, coat, etc.). Once that search is accomplished, another metal detector screening should be made. If the alarm of a metal detector sounds again, the individual should be taken to a private place for a more thorough screening and search.
  - 5). An individual should never be allowed to enter a school building until he/she can walk through a metal detector without sounding the alarm or until some form of secondary search can identify the item causing the alarm.
  - 6). The Detroit Public Schools endeavors to not prolong any "random" screenings and have students miss more than one class period as a result of said screenings. Where feasible, students shall be released to attend classes after successfully passing through the scanning process.
- d). Refusal to Cooperate—Persons who refuse to cooperate with school officials during a search authorized by this policy should be referred to the principal of the respective school. Students who refuse to be searched will have their parents contacted by school officials. At no time, should a student be allowed into the school unless they are willing to be scanned and searched. Any absence that occurs as a result of refusing a search authorized by this policy should be counted as an unexcused absence.