



*Learning for the future*

Ahuwhenua – Manaakitia – Mana Motuhake – Manawanui – Aroha

**Kamo Primary School**

## **NAG 5 - Policy and Procedure**

### **Surrender and Retention of Property, and Searches**

#### **Rationale**

Kamo Primary School is required to provide a safe physical and emotional environment for students and staff.

#### **Purpose**

The Board of Trustees is responsible for ensuring procedures are developed and implemented to provide this safe environment. However, employees of Kamo Primary School need to be aware of their responsibilities to comply with the school's policy and procedures.

#### **Delegations**

The Board of Trustees delegates to the principal the responsibility to:

- develop and implement surrender and retention of property, and search procedures.
- ensure employees have the information they need in order to comply with policy and procedures.

#### **Expectations and Limitations**

The Board of Trustees will, as far as is reasonably practicable,<sup>1</sup> comply with the legislation dealing with surrender and retention of property, and searches by:

- Providing a safe physical and emotional environment.
- Providing adequate facilities to ensure students and staff are not exposed to harm.
- Ensuring there is an effective method in place for surrendering and retaining property, which includes a written record of any item or device taken.
- Ensuring there is an effective method in place for conducting searches, which includes a written record of any and all searches which take place.
- Having a commitment to a culture of physical and emotional safety for staff and students.

<sup>1</sup> Reasonably practicable means what is, or was, reasonably able to be done at a particular time to ensure the safe physical and emotional environment, taking into account and weighing up all relevant matters.

The principal has responsibility for implementing this policy and therefore must:

- Exercise due diligence in accordance with the provisions of the surrender and retention of property, and searches legislation.
- Take all reasonable steps to protect students, staff and visitors to the school from physically and/or emotionally unsafe conditions or practices.
- Ensure there is zero tolerance to having physically or emotionally unsafe property (which includes items or devices) on the school grounds, and that there are effective processes in place.



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- Provide information to employees.
- Advise the Board chairperson of any physically or emotionally unsafe situations as soon as possible.
- Ensure all employees and other workers at the school will take reasonable care to:
  - co-operate and comply with the surrender and retention of property, and search procedures.
  - ensure their own safety at work.
  - promote and contribute to a physically and emotionally safe culture at the school.

### Guidelines

At Kamo Primary School we comply with the Education and Training Act 2020 - in particular Part 3, Subpart 4 - Searches and surrender of property, Sections 105 - 114. We also comply with the Education (Surrender, Retention, and Search) Rules 2013 (Appendix 1).

We will refer to the Ministry of Education's document titled 'Guidelines for the surrender and retention of property and searches' (Appendix 2) for further information if necessary.

Under the legislation, only authorised staff can conduct a search and/or seizures of items and devices. All teachers are automatically authorised to do this.

We follow the Ministry of Education's definitions with regard to the terms 'items' and 'devices.' These are:

- Devices can be thought of as something electronic and/or digital that can be used to create, edit, communicate, copy or store digital information. For example: a mobile phone, smartphone, a tablet, laptop, computer or a camera.
- An item is considered to be everything else, including information stored in electronic form. This includes text, image, audio and video.

A search *can only* be conducted if a staff member forms a belief on reasonable grounds that a student has an item or device that is:

- Likely to endanger the safety of others.
- Likely to detrimentally affect the learning environment.
- Harmful (poses an immediate threat to the physical or emotional safety of any person).

### Key Information

The Summary Chart (Appendix 6) can be referred to for the steps and processes in the legislation that deal with the surrender and retention of property, and searches.

Searches can only be conducted for an item or device that is considered to be harmful. Searches cannot be conducted for an item that is likely to endanger safety only, or for an item that is likely to detrimentally affect the learning environment only.

Unless impracticable, a search must be carried out by a staff member who is of the same sex as the student, and in the presence of the student and another staff member who is of the same sex as





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the student. An example of “impracticable” is a small primary school that would find it difficult (if not impossible) from time to time to meet the same sex or second staff member requirements.

Unless impracticable, a search must not be carried out in the view of any person other than the person carrying out the search, the student and another staff member.

It is unlawful to search a student’s person.

A staff member cannot use physical force against a student, other than in an emergency situation where staff are acting to defend themselves or others against immediate harm.

### Searches of School Property

- Only authorised staff can conduct or carry out a search.
- School property can be searched at any time for any reason and in any way. School property includes buildings, grounds and vehicles - as well as any locker, desk or other receptacle provided to students for storage purposes.

### Searches of Student’s Property

- Only authorised staff can conduct or carry out a search.
- A student’s property can only be searched if there is a belief that a student has an item that may cause harm. The staff member can only ask a student to:
  - Remove any outer clothing, except where the student has no other clothing, or only underclothing. Please note: outer clothing includes a coat, jacket, jumper or cardigan, and that socks do not include tights or stockings.
  - Remove any head covering, gloves, footwear or socks. Please note: some students may object to removing a head covering on religious grounds.
  - Surrender a bag or other container.
- If the student removes any clothing or footwear, or surrenders any bag or other container, then the staff member may search it. Even if a student asks a teacher or authorised staff member to do so, the clothing *must not* be searched while the student is wearing it.
- When searching a student’s bag, the student could be asked to hold the bag open and move the contents around so that they can be more easily viewed by the staff member conducting the search.
- If during the search for a harmful item, an item that is likely to detrimentally affect the learning environment is found, then the staff member may retain it. Although not specifically mentioned in the legislation, an item that is likely to endanger safety may also be retained if it is believed that it could detrimentally affect the learning environment.
- Whether an item is found or not, the clothing or footwear or bag or other belongings must be returned to the student immediately.
- A search of the property of two or more students together cannot be initiated unless the staff member has reasonable grounds to believe that each student has a harmful item.
- Any items and/or devices which have been seized may be passed onto another person or agency if applicable.
- If an item or device is surrendered or seized, the school may retain and/or dispose of the item, or retain the device on which an item is stored.



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- If an item or device is to be retained overnight or longer it must be held in secure storage. Secure storage means any container (drawer, safe) or area (office) which is locked and which cannot be accessed without authority. Any retained item or device must be stored in the Principal's office.
- Parents, caregivers and/or whānau need to be contacted as soon as possible.
- If a student is believed to have stolen something that does not belong to them, and the staff member believes on reasonable grounds that the student has an item that is harmful, the normal criteria for conducting a search applies.
- In certain circumstances where there is a threat to anyone in the school community, staff will deal with the situation in an appropriate manner to ensure the safety of all.

### Surrender and Retention of Property

The Board of Trustees requires a written record (Appendix 4) is made and kept of every item or device taken under the Education and Training Act 2020 that is retained:

- For two nights, each of which follows a day on which the school is open for instruction; or
- For a longer period of time

Refer to Appendix 2 - 'Guidelines for the surrender and retention of property and searches' for more detail regarding what the legislation allows.

### Searches

The Board of Trustees requires a written record (Appendix 5) is made and kept of every search that is carried out, under section 107 of the Education and Training Act 2020, of a student's clothing, bag or other containers.

A search can only be conducted if the student has an item which is considered to be harmful to others. A search cannot be conducted for an item that is likely to endanger others' safety only, or for an item that is likely to affect the learning environment only.

Refer to Appendix 2 - 'Guidelines for the surrender and retention of property and searches' for more detail regarding what the legislation allows.

### Monitoring

Any searches and/or seizures or retention of property will be reported at Board of Trustees meetings, or emailed through as an e-resolution with any concerns.

Signed: .....  ..... Principal

Signed: .....  ..... BOT Chairperson

Reviewed: Term 2, 2022

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