

Office of the General Counsel
Walter J. Harvey, General Counsel

SUBJECT: **INITIAL READING: PROPOSED AMENDMENTS TO SCHOOL BOARD POLICIES 1217, 3217, 4217, 5772, 7217, WEAPONS, AND 5771, SEARCH AND SEIZURE**

COMMITTEE: **PERSONNEL, STUDENT, SCHOOL & COMMUNITY SUPPORT**

LINK TO STRATEGIC PLAN: **SAFE, HEALTHY, & SUPPORTIVE LEARNING ENVIRONMENTS**

Board Policies 1217, 3217, 4217, 5772, 7217, *Weapons* and 5771, *Search and Seizure*, are proposed for amendment to align with Florida Statutes and District practices and pursuant to Board Item H4 sponsored by Board Member Steve Gallon III and approved by the Board at its regularly scheduled meeting of July 19, 2023. These amendments clarify the School Board's expressed waiver of the statutory vehicle exception found in F.S. 790.115(2)(a)3. All individuals, except for law enforcement officers, as defined in F.S. 790.115(3), and Board-contracted armed guards, are prohibited from possessing a weapon on property owned, leased or contracted for by the Board, in a school safety zone, school-sponsored event, in any setting that is under the control and supervision of the Board, in a Board-owned vehicle, or in a private vehicle located on property leased, owned, or contracted for by the Board. The proposed amendments to Board Policy 5771, *Search and Seizure*, are to align with District practices as it relates to searches involving the use of trained animals. As well as a result of HB 1537 (2023) specifying that any search of a student's personal belongings must be conducted discreetly to maintain privacy of the student's personal items within such belongings.

The policy amendments were drafted in collaboration with, and reviewed by the Superintendent, Cabinet, and District staff. The Notice of Intended Action and policies with strikethroughs and underlines are attached.

RECOMMENDED: That The School Board of Miami-Dade County, Florida, authorize the Superintendent to initiate rulemaking proceedings in accordance with the Administrative Procedures Act to amend Board Policies 1217, 3217, 4217, 5772, 7217, *Weapons* and 5771, *Search and Seizure*.

NOTICE OF INTENDED ACTION

THE SCHOOL BOARD OF MIAMI-DADE COUNTY, FLORIDA, announced on August 16, 2023, its intention to amend Board Policies 1217, 3217, 4217, 5772, 7217, *Weapons* and 5771, *Search and Seizure*, at its meeting of October 11, 2023.

PURPOSE AND EFFECT: Board Policies 1217, 3217, 4217, 5772, 7217, *Weapons* and 5771, *Search and Seizure*, are proposed for amendment as a result of Board action and to align with Florida Statutes and District practices.

SUMMARY: Board Policies 1217, 3217, 4217, 5772, 7217, *Weapons* are proposed for amendment to clarify the School Board's expressed waiver of the statutory vehicle exception found in F.S. 790.115(2)(a)3. All individuals, except for law enforcement officers, as defined in F.S. 790.115(3), and Board-contracted armed guards, are prohibited from possessing a weapon on school property, including in a private vehicle located on property leased, owned, or contracted for by the Board. The proposed amendments to Board Policy 5771, *Search and Seizure*, are to align with District practices as it relates to searches involving the use of trained animals. As well as a result of HB 1537 (2023) specifying that any search of a student's personal belongings must be conducted discreetly to maintain privacy of the student's personal items within such belongings.

SPECIFIC LEGAL AUTHORITY UNDER WHICH RULEMAKING IS AUTHORIZED: Fla. Stat. ss. 1001.41(1), (2).

LAWS IMPLEMENTED INTERPRETED OR MADE SPECIFIC: Fla. Stat. ss. 790.001; 790.115; 790.25; 901.151; 901.121; 933.07, 1001.43, 1002.20(4); 1003.02; 1006.07; 1006.08; 1006.09; 1006.13; Fla. Fla. Const. Art. I, Sec. 2; U.S. Constitution, 4th Amendment.

IF REQUESTED, A HEARING WILL BE HELD DURING SCHOOL BOARD MEETING OF October 11, 2023, which begins at 1:00 p.m., in the School Board Auditorium, 1450 N.E. Second Avenue, Miami, Florida 33132. Persons requesting such a hearing or who wish to provide information regarding the statement of estimated regulatory costs, or to provide a proposal for a lower cost regulatory alternative as provided in Section 120.54(1), F.S., must do so in writing by September 13, 2023, to the Superintendent, Room 912, at the same address.

ANY PERSON WHO DECIDES TO APPEAL THE DECISION made by the School Board of Miami-Dade County, Florida, with respect to this action will need to ensure the preparation of a verbatim record of the proceedings, including the testimony and evidence upon which the appeal is to be based. (Section 286.0105, Florida Statutes)

COPIES OF THE PROPOSED AMENDED POLICY are available at cost to the public for inspection and copying in the Citizen Information Center, Room 158, 1450 N.E. Second Avenue, Miami, Florida 33132.



Book Policy Manual
Section August 16, 2023- Initial Reading
Title WEAPONS
Code 1217
Status Initial Reading

1217 - **WEAPONS**

Except for School Police law enforcement officers, as defined in F.S. 790.115(3), and Board-contracted armed guards, individuals, including employees, are prohibited from possessing, storing, making, or using a weapon, including a concealed weapon, on property-owned, leased or contracted for by the Board, in a school safety zone, school-sponsored event, in-and any setting that is under the control and supervision of the Board ~~for the purpose of school activities including, but not limited to, property leased, owned, or contracted for by the Board, a school-sponsored event, or~~ in a Board- owned vehicle, or in a private vehicle located on property leased, owned or contracted for by the Board. This policy is intended to expressly revoke or waive the statutory vehicle exception in F.S. 790.115(2)(a)3. and the right to carry a firearm in a private conveyance. The Board hereby waives the exception in F.S. 790.115(2)(a)3. for purposes of all student and campus parking privileges.

Weapons and firearms are defined in F.S. 790.001 and include, but are not limited to, firearms, guns of any type, knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives.

The term "weapon" also means any object which, in the manner in which it is used, or is intended or represented to be used is capable of inflicting serious bodily harm or property damage, or endangering the health and safety of persons.

Staff members shall report knowledge of dangerous weapons and/or threats of violence by students, staff members, or visitors to the appropriate supervisor. Failure to report such knowledge may subject the staff member to discipline.

The Superintendent shall post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school buildings, on school premises and school buses, and at school activities.

The Superintendent shall conspicuously post such notices at each entrance of a school and/or school building and in areas inside the building where visitors are required to report. Notices shall also be posted at each entrance leading into a school activity (particularly those activities held outside of the school building) and parcel of land. The failure to post a notice, however, does not preclude disciplinary action for violations of this policy.

Effective 07.01.2011

Legal References:

F.S. 790.001, 790.115, [790.25](#), 1001.43
18 U.S.C. 922

Adoption Date: 05.11.2011



Book Policy Manual
Section August 16, 2023- Initial Reading
Title WEAPONS
Code 3217
Status Initial Reading

3217 - **WEAPONS**

~~Except for School Police law enforcement officers, as defined in F.S. 790.115(3), and Board-contracted armed guards, individuals, including employees, are prohibited from possessing, storing, making, or using a weapon, including a concealed weapon, on property owned, leased or contracted for by the Board, in a school safety zone, school-sponsored event, in and any setting that is under the control and supervision of the Board, for the purpose of school activities including, but not limited to, property leased, owned, or contracted for by the Board, a school-sponsored event, or in a Board- owned vehicle, or in a private vehicle located on property leased, owned or contracted for by the Board. This policy is intended to expressly revoke or waive the statutory vehicle exception in F.S. 790.115(2)(a)3. and the right to carry a firearm in a private conveyance. The Board hereby waives the exception in F.S. 790.115(2)(a)3. for purposes of all student and campus parking privileges. _~~

Weapons and firearms are defined in F.S. 790.001 and include, but are not limited to, firearms, guns of any type, knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives. The term "weapon" also means any object which, in the manner in which it is used, intended or represented to be used, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons.

Staff members shall report knowledge of dangerous weapons and/or threats of violence by students, staff members, or visitors to the appropriate supervisor. Failure to report such knowledge may subject the staff member to discipline.

The Superintendent shall post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school buildings, on school premises and school buses, and at school activities.

The Superintendent shall conspicuously post such notices at each entrance of a school and/or school building and in areas inside the building where visitors are required to report. Notices shall also be posted at each entrance leading into a school activity (particularly those activities held outside of the school building) and parcel of land. The failure to post a notice, however, does not preclude disciplinary action for violations of this policy.

Effective 07.01.2011

Legal References:

F.S. 790.001, 790.115, [790.25](#), 1001.43
18 U.S.C. 922

Adoption Date: 05.11.2011



Book	Policy Manual
Section	August 16, 2023- <u>Initial</u> Reading
Title	WEAPONS
Code	4217
Status	<u>Initial</u> Reading

4217 - **WEAPONS**

Except for School Police law enforcement officers, as defined in F.S. 790.115(3), and Board-contracted armed guards, individuals, including employees, are prohibited from possessing, storing, making, or using a weapon, including a concealed weapon, on property owned, leased or contracted for by the Board, in a school safety zone, school-sponsored event, in and any setting that is under the control and supervision of the Board, for the purpose of school activities including, but not limited to, property leased, owned, or contracted for by the Board, a school-sponsored event, or in a Board- owned vehicle, or in private vehicle located on property leased, owned or contracted for by the Board. This policy is intended to expressly revoke or waive the statutory vehicle exception in F.S. 790.115(2)(a)3. and the right to carry a firearm in a private conveyance. The Board hereby waives the exception in F.S. 790.115(2)(a)3. for purposes of all student and campus parking privileges.

Weapons and firearms are defined in F.S. 790.001 and include, but are not limited to, firearms, guns of any type, knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives. The term "weapon" also means any object which, in the manner in which it is used, is intended or represented to be used, is capable of inflicting serious bodily harm or property damage, as well as endangering the health and safety of persons.

Staff members shall report knowledge of dangerous weapons and/or threats of violence by students, staff members, or visitors to the appropriate supervisor. Failure to report such knowledge may subject the staff member to discipline.

The Superintendent shall post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school buildings, on school premises and school buses, and at school activities.

The Superintendent shall conspicuously post such notices at each entrance of a school and/or school building and in areas inside the building where visitors are required to report. Notices shall also be posted at each entrance leading into a school activity (particularly those activities held outside of the school building) and parcel of land. The failure to post a notice, however, does not preclude disciplinary action for violations of this policy.

Effective 07.01.2011

Legal References:

F.S. 790.001, 790.115, [790.25](#), 1001.43

18 U.S.C. 922

Adoption Date: 05.11.2011



Book	Policy Manual
Section	August 16, 2023- <u>Initial</u> Reading
Title	WEAPONS
Code	5772
Status	<u>Initial</u> Reading

5772 - **WEAPONS**

Students are prohibited from possessing, storing, making, or using a weapon, including a concealed weapon, on property owned, leased or contracted for by the Board, in a school safety zone, school-sponsored event, in and any setting that is under the control and supervision of the School Board, for the purpose of school activities approved and authorized by the Board including, but not limited to, property leased, owned, or contracted for by the Board, a school-sponsored event, or in a Board-owned vehicle, or in a private vehicle located on property leased, owned or contracted for by the Board. This policy is intended to expressly revoke or waive the statutory vehicle exception in F.S. 790.115(2)(a)3. and the right to carry a firearm in a private conveyance. The Board hereby waives the exception in F.S. 790.115(20(a)3. for purposes of all student and campus parking privileges.

Weapons and firearms are defined in F.S. 790.001 and include, but are not limited to, firearms, guns of any type, knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives. Weapon also means any object which, in the manner in which it is used, is intended or represented to be used, is capable of inflicting serious bodily harm or property damage, or endangering health and safety. This policy also prohibits look-alike items, false fire alarms, bomb threats, or intentional calls to falsely report a dangerous condition.

The Superintendent is authorized to establish administrative procedures on weapons which require students to immediately report knowledge of weapons and threats of violence by students and staff to the principal, School Police, or other appropriate staff member.

The Superintendent shall also post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school

buildings, on school premises, and at school activities. The failure to post a notice, however, shall not prevent enforcement of this policy.

Items pre-approved by the Principal as part of a class or individual presentation or a theatrical prop used under adult supervision, if used for the purpose and in the manner approved, are an exception to this policy. Working firearms, ammunition, and any items that could endanger health and safety shall not be approved as part of any school-sponsored presentation, including classes and assemblies, or as a theatrical prop.

Violations of this policy shall be addressed pursuant to the Code of Student Conduct (Policy 5500).

Effective 07.01.2011

Revised 04.15.2015

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Legal References:

F.S. ~~790~~, 790.001, 790.115, 790.25, 1001.43(1)(a), 1006.07
20 U.S.C. 7151

Adoption Date: 05.11.2011



Book	Policy Manual
Section	August 16, 2023- <u>Initial</u> Reading
Title	WEAPONS
Code	7217
Status	<u>Initial</u> Reading

7217 - **WEAPONS**

Visitors, except for law enforcement officers, as defined in F.S. 790.115(3), and Board-contracted armed guards, are prohibited from possessing, storing, making, or using a weapon, including a concealed weapon, on property owned, leased or contracted for by the Board, in a school safety zone, school-sponsored event, in and any setting that is under the control and supervision of the Board, for the purpose of school activities approved and authorized by the Board including, but not limited to, property leased, owned, or contracted for by the Board, a school-sponsored event, or in a Board-owned vehicle, or in a private vehicle located on property leased, owned or contracted for by the Board. This policy is intended to expressly revoke or waive the statutory vehicle exception in F.S. 790.115(2)(a)3. and the right to carry a firearm in a private conveyance. The Board hereby waives the exception in F.S. 790.115(2)(a)3. for purposes of all student and campus parking privileges.

Weapons and firearms as defined in F.S. 790.001 include, but are not limited to, firearms, guns of any type, knives, razors, clubs, electric weapons, metallic knuckles, martial arts weapons, ammunition, and explosives. Weapon also means any object which, in the manner in which it is used or is intended or represented to be used, is capable of inflicting serious bodily harm or property damage, or endangering health and safety.

Staff members shall report knowledge of dangerous weapons and/or threats of violence by students, staff members, or visitors to the appropriate supervisor. Failure to report such knowledge may subject the staff member to discipline.

The Superintendent shall refer a visitor who violates this policy to law enforcement officials and may take any necessary steps to exclude the visitor from Board-owned

or controlled property and Board sponsored events, regardless of whether such visitor possesses a valid concealed weapon license.

An exception to this policy includes weapons under the control of law enforcement personnel.

The Superintendent shall post notices prohibiting the carrying and possession of concealed weapons in a school safety zone, including schools and school buildings, on school premises and school buses, and at school activities. The failure to post a notice, however, does not preclude enforcement of this policy.

Effective 07.01.2011

Legal References:

F.S. 790.001, 790.115, 790.25, 1001.43-~~(1)(a)~~, ~~1006.07~~
18 U.S.C. 922

Adoption Date: 05.11.2011



Book	Policy Manual
Section	August 16, 2023- <u>Initial</u> Reading
Title	SEARCH AND SEIZURE
Code	5771
Status	<u>Initial</u> Reading

5771 - **SEARCH AND SEIZURE**

No student may be searched without reasonable suspicion or in an unreasonable manner. Reasonable suspicion generally exists when there are reasonable grounds for suspecting that the search will turn up evidence that the student has violated or is violating either the law, School Board policy, or the rules of the school. The scope of the search must be reasonably related to the suspected violation(s).

School authorities may search the person or property, including vehicles, of a student, with or without the student's consent, whenever they reasonably suspect that the search will turn up evidence of a violation of law, Board policy, or rules of the school. This authority applies to all situations in which the student is under the jurisdiction of the Board. ~~School authorities may also inspect for the presence of drugs or devices according to applicable law and Board policy.~~ Any evidence confiscated during a search by school staff or administration, including digital evidence in the form of images, audio, or video, shall be preserved and unaltered pending resolution of the investigation into the suspected violation(s).

The school shall provide storage places, including desks and/or lockers to store student possessions. These spaces and the contents within them remain under the control of the Board and may be the subject of random search. Where allowed, students may lock storage places but students shall have no expectation of privacy that would prevent inspection by school officials.

School authorities may also inspect for the presence of drugs or devices according to applicable law and Board policy. This includes the use of specially trained animals to conduct searches without individualized suspicion pursuant to procedures established by the Superintendent.

To deter individuals from bringing weapons to school, curtail the threat of violence, and foster a safe learning environment for students, staff, and visitors, metal detector searches are authorized without individualized suspicion pursuant to procedures established by the Superintendent.

Any search of a student's personal belongings, including a purse, backpack, or bookbag, must be conducted discreetly to maintain the privacy of the student's personal items within such belongings. Personal items that are not prohibited on school grounds must be immediately returned to the student's personal belongings.

Effective 07.01.2011

Revised 03.15.2017

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Legal References:

F.S. 901.151

F.S. 901.21

F.S. 918.13

F.S. 933.07

F.S. 1006.09(9), (10)

Fla. Const. Art. I, Sec. 2

U.S. Constitution, 4th Amendment

Adoption Date: 05.11.2011