

Office/Contact: Office of Student Affairs

Source: SDBOR Policy 3:17

Link: <https://www.sdbor.edu/policy/documents/3-17.pdf>

SOUTH DAKOTA STATE UNIVERSITY
Policy and Procedure Manual

SUBJECT: Entry, Search and Seizure

NUMBER: 3:9

1. Purpose

This policy implements SDBOR Policy 3:17, as well as state and federal law, to ensure the rights of students to be secure in their persons, living quarters, papers and possessions against unreasonable entry, searches, and seizures.

2. Policy

- a. This policy shall be applied in conformity with the University Emergency Management Plan and SDBOR and University policies, including the applicable provisions of the Student Code.
- b. The entry into and/or search of University-owned student residences may be conducted by civil law enforcement officers in the performance of statutory duties and in accordance with legally defined procedures governing search and seizure.
- c. While reasonable efforts shall be made by the University to respect the privacy of a student's room and/or residence for students living in University-managed apartments/properties, University officials have the right to enter University-owned student residences in the following instances:
 - i. When maintenance requested by the resident(s) is to be performed;
 - ii. When routine inspection of rooms for safety, health, and general upkeep purposes is proscribed by the University and preceded by at least twenty-four (24) hours written or posted notice to the resident(s);
 - iii. When the security of and/or routine maintenance to the facilities is to be performed during breaks when the facility is otherwise closed;
 - iv. When a University official knocks, identifies themselves as staff, and is invited into the room or residence;
 - v. When a violation of University policy is in plain view through a window or open door to a room or residence;

- vi. When permission from a resident is given for an authorized University official to escort another person to retrieve item(s) left behind in the room;
 - vii. When there is imminent danger to the safety, health, or property of the occupant(s) or to University property;
 - viii. When conduct or conditions in the residence immediately and seriously disrupt the educational and/or communal atmosphere of the residence facility (e.g. an unattended alarm clock or other noise is loud enough to be heard in the hallway or other rooms); or
 - ix. When there is reasonable cause to believe that a student is using the room or residence illegally or in violation of University policy and an administrative entry and search permit has been issued. The entry/search permit does not authorize a search by University officials that is conducted as part of a joint investigation with law enforcement agencies or at the request or under the supervision of law enforcement personnel. Entry, search, and seizure in those circumstances are governed by warrant requirements generally applicable to law enforcement agencies.
- d. Search of a University-owned locker, carrel, or similar furnishing shall be permitted in the following instances:
- i. When routine inspection of such furnishings for safety, health, and general upkeep purposes is necessary;
 - ii. When there is imminent danger to the safety, health, or property of the student user or other individuals, or to University property;
 - iii. When the search is conducted by University officials with reasonable cause to believe that a student is using such furnishings in a way that is illegal or violates University policy; or
 - iv. When violation of University policy inside the locker, carrel, or similar furnishing is in plain view.
- e. Entry, search, and seizure of student vehicles shall be governed by warrant requirements generally applicable to law enforcement agencies.
- f. Unless University policies regarding items in student residences or institutional storage furnishings apply, search and seizure of student personal effects shall also be governed by warrant requirements generally applicable to law enforcement agencies.
- g. To achieve efficient and proper operation of the institution, the University reserves the right to enter and search a student employee's campus workplace when the University has reasonable grounds for suspecting that a search is necessary for a legitimate, non-investigatory purpose, such as retrieval of work-related materials, or that the search shall bear evidence of the employee's violation of workplace rules. The scope of the search shall be reasonably related to the necessity of the work-related purpose or the nature of the suspected employee misconduct.

3. Procedures

- a. At least twenty-four (24) hours before a routine inspection of a University-owned room or residence for safety, health, or general upkeep, the applicable University official will provide the resident(s) with written or posted notice of the inspection. Such notice is not necessary when a resident completes a work order for specific improvements, repairs, or maintenance services.
- b. If a guest of a resident asks to be let into a resident's room to retrieve item(s) left in the room, Residence Hall staff will determine if the need is urgent and then directly contact the resident. Upon obtaining permission from the resident for the guest to enter the room, staff will verify the identity of the resident. If such permission is granted, Residence Hall staff will accompany the guest to the room to retrieve the item(s).
- c. When there is reasonable cause to believe that a student is using their residence in a way that is illegal or a violation of University policy, the University President, or designee, will issue an administrative entry and search permit prior to entry of the University-owned residence or performing a search.
 - i. Administrative entry and search permits will include the following:
 1. The room(s) to be searched;
 2. The Student Code provision(s) and/or residence regulation(s) allegedly being violated;
 3. The factual basis supporting the alleged violation;
 4. The item(s) being sought (if applicable);
 5. The names of those authorized to enter and search;
 6. The authorizing designee, if not the University President.
 - ii. Substantiated violations will be processed through the Student Code (University Policy 3:1).

4. Responsible Administrator

The Vice President for Student Affairs, or designee, is responsible for the biennial and ad hoc review of this policy and its procedures. The University President is responsible for approval of this policy.

SOURCE: Approved by President on 12/22/2017.