

# Portland Public School District 1<sup>st</sup> Reading

**DATE OF FIRST READING: June 11, 2020**

## **PUBLIC COMMENT FOR Policy 4.03.040-P: Search and Seizure Policy**

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The Portland Public School District is providing Notice of Proposed Revised Policy and Public Comment to offer interested parties reasonable opportunity to submit data or comments on the proposed policies noted below.

Public comment may be submitted in writing directly to the district or through the district website noted below. Written comments must be submitted by 5:00pm on the Last Date for Comment listed below.

### **Last Date for Comment: July 02, 2020**

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**Summary:** Search and Seizure Policy 4.03.040-P

**1<sup>st</sup> Reading by:** Rita Moore  
Portland Public School Board

**Recommended for a second 1st Reading by:**  
Portland Public Schools Board of Education  
Policy Committee

**Draft Policy Web Site:** <https://www.pps.net/Page/11911>

**Contact:** Rosanne Powell, Senior Board Manager  
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# BOARD POLICY

## Search and Seizure

### 4.30.040-P

**6/2/20 Draft**

#### 1. Purpose

The Board of Education is committed to maintaining a safe school environment while respecting the privacy rights of students. The purpose of this policy is to preserve and foster a safe, non-disruptive educational environment for effective teaching and learning, to maintain a safe school climate, and to achieve these objectives consistent with the law.

The Board recognizes that each student shall have the right to privacy at school with respect to each individual person, which is also accorded to public school students by law. To protect the educational climate and the health and safety of students and staff, school officials are empowered to conduct searches of students and student property when the school official has a reasonable suspicion that there has been a violation of a law, District policy, or school rule or policy, and the official has a reasonable suspicion that the search will produce evidence of that wrongdoing. Parents/guardians shall be notified after a search of a student's person or property and shall be informed of the results of the search.

#### 2. Racial Equity & Social Justice Framework

In alignment with the [PPS Racial Education Equity Policy](#) and resulting PPS RESJ Framework and Plan, PPS acknowledges the practices that lead to overrepresentation of students of color in discipline. We understand systemic and cultural racism in both the education and criminal justice system and resulting presence of bias in the interpretation of reasonable suspicion. In alignment with PPS vision and values, the District will adopt practices that confront and eliminate bias in the interpretation of reasonable suspicion.

#### 3. Searches

A school official may conduct a search during the school day and during all school-sponsored activities such as athletic events or concerts, whether on or off school property. In conducting a search of a student or student property, a school official shall take reasonable steps to preserve student privacy and dignity whenever possible and encourage student cooperation in any search.

The School District provides students with storage areas, such as lockers, desks, and similar areas and also provides students certain technology, software, and internet access (collectively, "District Property"). Students do not have an expectation of privacy in District Property. School officials are permitted to search District Property or other non-student property as needed and without reasonable suspicion, student/parent/guardian consent, or notification. They are also permitted to inspect unidentified items found on PPS property without reasonable suspicion.

Students and parents/guardians shall be notified of the District's policy regarding search and seizure in readily-available materials, such as the Student Handbook [insert link]. Students and parents/guardians will also be notified of complaint procedures available to them.

#### 4. Parent/Guardian Notice

Parents/guardians shall also be notified and must provide consent before any law enforcement conducts an interview of a student who is the subject of an investigation taking place on District premises. Parents/guardians of potential witnesses or victims shall also be notified before law enforcement officers conduct an interview on District premises, although administrators may

make exceptions in instances where this notice may deter a student who is the victim of a crime from reporting. Pursuant to Oregon law, parents/guardians may not be notified when the child is interviewed as a suspected victim of child abuse. In situations where there is an imminent threat to safety or security, there may not be an opportunity to notify parents prior to law enforcement intervention. By law, school administrators may not interfere with the arrest of students.

## 5. Tracking system

The District will develop a tracking system and report its findings to the Board on an annual basis. In order to comply with PPS Racial Educational Equity Policy to eliminate racial disproportionality in discipline, the tracking system should include **demographic information on the searches conducted by each school, the object of the search**, and other indicators which will help to identify, analyze, and monitor disparities.

## 6. Process

For more information about the process by which school officials may conduct a search or seizure of students or their property, the nature and types of prohibited property, and other details on the implementation of this policy, please see the related Administrative Directive [insert link].

## 7. Definitions

- a. **Reasonable suspicion** is a standard of proof that is based on specific facts that can be described, as well as the rational conclusions that can be drawn from those facts. Examples of reasonable suspicion may include, but are not limited to, eyewitness observations by school personnel; information from a source deemed reliable;; recognizable smell of alcohol, tobacco, or marijuana; or other unusual behavior.
- b. **Interview by law enforcement** means the intentional questioning of a student when the student feels they do not feel free to leave a room or disengage from the conversation. Students seeking out and engaging in conversations with law enforcement during the course of the school day is not an interview.
- c. **Parent/Guardian** is the person who has been identified in school records as having a custodial relationship with the student.
- d. **Imminent threat** is an immediate threat of serious bodily injury to self or others or death.
- e. **Subject of an Investigation** is a person whose conduct gives rise to a suspicion that the person may have engaged in illegal activity.

Legal References: ORS 332.075; ORS 419B.010 - 419B.045; OAR 581-021-0050 to -0075; ORS 332.107

History: Adpt 8/27/73; Amd 5/84; Amd 10/25/84; Amd 10/13/88; Amd 10/25/90; Amd 9/9/02; BA 2420; Amd 6/20



# BOARD POLICY

## 4.30.040-P

### Search and Seizure

~~11/26/2019 2/19/20 4/21/20 5~~  
~~6/2-86-1/20 Draft~~

#### 1. Purpose

The Board of Education is committed to maintaining a safe school environment while respecting the privacy rights of ~~s-tudents~~students. The purpose of this policy is to preserve and foster a safe, non-disruptive educational environment for effective teaching and learning, to maintain a safe school climate, and ~~t-o~~to achieve these objectives consistent with the law.

The Board recognizes ~~t-hat~~that each student shall have the right to privacy at school with respect to each individual person, which is also accorded to public school students by law. To protect the educational climate ~~a-n-d~~and the health and safety of students and staff, school officials are empowered to conduct ~~s-e-arches~~searches of students and student property when the school official has a reasonable suspicion ~~t-hat~~that there has been a violation of a law, District policy, or school rule or policy, and the official has a reasonable suspicion that the search will produce evidence of that wrongdoing. Parents/guardians shall be notified after a search of a student's person or property and shall be informed of the results of the search.

#### 2. Racial Equity & Social Justice Framework

In alignment with the ~~PPS~~PPS Racial Education Equity Policy ~~— Racial Education Equity Policy~~ and resulting PPS RESJ Framework and Plan, PPS acknowledges the practices that ~~l-e-ads~~lead to overrepresentation of students of color in discipline. We ~~u-nderstand~~understand systemic and cultural racism in both the ~~educat-ion~~education and criminal justice system and resulting presence of bias in the interpretation ~~in-~~of reasonable suspicion. In alignment with PPS ~~v-is-ion~~vision and values, the ~~d-D-istrict~~District will adopt practices that confront and eliminate bias in the interpretation of reasonable suspicion.

#### 3. Searches

A school official may conduct a search during the school day and during all school-sponsored activities such as athletic events or concerts, whether on or off school property. In conducting a search of a student or student property, a school official shall take reasonable steps to preserve student privacy and ~~d-ignity~~dignity whenever possible and encourage student cooperation in any search.

The School District ~~p-rovides~~provides students with storage areas, such as lockers, desks, and similar areas and also provides students certain technology, ~~s-oftware~~, software, and internet access (collectively, "District Property"). Students do not have an expectation of privacy in District Property. School officials are permitted to search District ~~P-roperty~~Property or other non-student property as needed and without reasonable ~~s-uspicion~~suspicion, student/parent/guardian consent, or notification. They are also permitted to inspect unidentified items found on PPS property without reasonable suspicion.

Students and parents/guardians shall be notified of the District's policy regarding search and seizure in readily-available materials, such as ~~t-he~~the Student Handbook [insert link]. Students

and parents/guardians will also be notified of complaint ~~p-rocedures~~procedures available to them.

#### 4. Parent/Guardian Notice

~~Last Revised 4/21/2020 9:34 AM~~4/21/2020 8:50 AM ~~11/26/2019 1:13 PM~~

Parents/guardians shall also be notified and must provide consent ~~-before~~ any law enforcement conducts an interview ~~e-f~~of a student who is the subject of an investigation taking place ~~who is the subject of an investigation taking place~~ on District ~~p-remises~~premises. Parents/guardians of potential witnesses or victims shall also be notified before law enforcement officers conduct an interview on District premises, ~~a-lthough~~although administrators may make exceptions in instances where this notice may deter a student who is the victim of a crime ~~f-rom~~from reporting. ~~Interviews shall take place with parental/guardian consent except i n specific scenarios outlined in the administrative directive. , and no interview shall take place without parental/guardian consent. This requirement to~~ The District ~~does not need to notify pP~~ Pursuant to Oregon law, parents/guardians may not be notified ~~does not apply~~ when the child is ~~taken into protective custody~~interviewed ~~interviewed~~ as a suspected victim of child abuse. In situations where there is an imminent threat to safety or security, there may ~~n-ot~~not be an opportunity to notify parents ~~p-rior~~prior to law enforcement intervention. By law, school administrators may not interfere with the ~~lawful~~ arrest of students.

#### ~~3.~~ 5. Tracking system

The District will develop a tracking system ~~a-nd~~and report its findings to the Board on an annual basis. In order to ~~comply~~comply with PPS Racial Educational Equity ~~P-olicy~~Policy to eliminate racial disproportionality in discipline, the tracking system should ~~capture~~ include demographic information ~~-on the number of searches conducted by each school, the object of the search,~~ and other indicators which will help to identify, ~~a-nalyze~~analyze, and monitor disparities.

#### ~~4.~~ 6. Process

For more information about the process by which school officials may conduct a search or seizure of students ~~e-r~~or their property, the nature and types of prohibited property, and other details on the implementation of this policy, please see the related Administrative Directive [insert link].

#### ~~5.~~ 7. Definitions

- a. **Reasonable suspicion** is a standard of proof that is based on specific facts ~~which~~ that can be ~~articulated~~described, ~~a-nd~~ ~~—~~ articulable facts ~~described~~, as well as the ~~, along with~~ rational conclusions that can be drawn from those facts. Examples of reasonable suspicion may include, but are not limited to, eyewitness observations ~~of~~ by school personnel; information from a source deemed reliable; ~~suspicious b-ehavior~~; recognizable smell of alcohol, tobacco, or marijuana; or other unusual behavior.
- b. **Interview by law enforcement** means the intentional questioning of a student when the student feels ~~he/she~~ they do ~~does~~ not feel free ~~t-o~~to leave ~~the~~ a room or disengage from the conversation. Students seeking out and engaging in conversations with law enforcement during the course of the school day ~~does not constitute~~ is not an interview.

- c. **Parent/Guardian** is the person who has been identified in school ~~s~~-records as having a custodial relationship with the student.
- d. **Imminent ~~hreat~~threat** is an immediate threat of serious bodily injury to self or others or death.

Page ~~2~~ of ~~3~~

- e. **Subject of an Investigation** is a person whose conduct gives rise to a suspicion that the person may have engaged in illegal activity.

Legal References: ORS 332.075; ORS 419B.010 - 419B.045; OAR 581-021-0050 to -0075; ORS 332.107

History: Adpt 8/27/73; Amd 5/84; Amd 10/25/84; Amd 10/13/88; Amd 10/25/90; Amd 9/9/02; BA 2420-; Amd ~~4~~-~~6~~/20





Search ~~And~~ Seizure

~~Student Right to Privacy~~. Each student shall have the  
6/2/20 Draft

1. Purpose

The Board of Education is committed to maintaining a safe school environment while respecting the privacy rights of  
items-  
students. The purpose of this policy is to preserve and foster a safe, non-disruptive educational environment for  
effective teaching and learning, to maintain a safe school climate, and to achieve these objectives consistent with the  
law.

- ~~(1) The Board recognizes that each student shall have the right to~~ privacy at school with respect to ~~his/her~~each individual person, which is also accorded to public school students by law. ~~Under the law, each student's conduct is necessarily limited by the school's need to protect its educational climate from disruption by the presence of weapons, explosives, drugs or other dangerous or prohibited~~
- ~~(2) Possession of Prohibited Items.~~ To protect the educational climate and the health and safety of ~~persons and property on the school grounds and at school functions,~~ the following items are prohibited:
  - ~~(a) Dangerous or deadly weapons including, but not limited to, firearms, knives, metal knuckles, straight razors, weapons of the nunchaku type, black jack, sap, sap glove, and other instruments capable of inflicting injury to persons or property;~~
  - ~~(b) Explosives;~~
  - ~~(c) Noxious, irritating or poisonous gases;~~
  - ~~(d) Poisons;~~
  - ~~(e) Intoxicants and drugs (except medicines prescribed for the student which shall be in the labeled container and non-prescription remedies);~~
  - ~~(f) Paraphernalia used in the transporting, sale or use of illegal drugs;~~
  - ~~(g) Stolen property;~~
  - ~~(h) Materials or devices which endanger the physical safety of persons or property;~~
  - ~~(i) Gang member identifying markings or paraphernalia;~~
  - ~~(j) Materials, devices, identifying markings or paraphernalia which are patently racially, religiously or sexually offensive including those associated with clubs, sects or groups avowing or practicing discrimination against persons on the basis of age, color, creed, disability, marital status, national origin, race, religion, sex or sexual~~



orientation;

~~(k) Other items or materials prohibited by Board policies, Administrative Regulations or school rules.~~

~~**(3) Checks of Assigned Student Storage Areas (Lockers, Desks, etc.)**~~

~~(a) General.~~

~~(A) Lockers, desks and other storage areas assigned to a particular student(s) (hereinafter called "student storage") remain in the possession and control of the school when they~~

## ~~4.30.040-P Search And Seizure~~

~~are made available (assigned) for student use. Students may use student storage for the limited purpose of temporarily keeping items needed by the student to participate in school instruction and activities only. No other purpose is permitted. Students shall expect that student storage will be checked by the school from time to time without prior notice to assure that such areas are not being used for any unauthorized purpose. Dogs capable of detecting the presence of drugs may be used as needed for these purposes. Prohibited items will be removed and held by the school.~~

~~(B) Students shall be particularly warned that food must be fresh and tightly packaged and that expensive items invite theft and are discouraged.~~

- ~~(b) Student Notification. A student need not be notified in advance of any check of the assigned student storage. Following any student storage check, if anything was removed, the principal shall, in writing, notify the student that the assigned student storage has been checked, the time of the check, the persons present, the items which were taken from the student storage and when and where returnable items will be available for the student or the student's parents (guardians).~~
- ~~(c) Cleanout. From time to time, the principal may set aside a time period during which all students shall clean their assigned student storage.~~
- ~~(d) Disposition of Prohibited Items. Items found in student storage which are not permitted shall be removed and held for the student except that prohibited items shall only be released to the student's parents (guardians), contraband will be destroyed or held for School Police and stolen items will be returned to the owner or the police.~~
- ~~(e) Limitations on Check. Checks of the student storage are only permitted on a random basis for the purpose of encouraging compliance by the students with Board policy, regulations or school rules and shall not be used by the school to focus on a particular student by searching an assigned student storage area. However, if the principal and staff, school officials are empowered to conduct searches of students and student property when the school official has a reasonable suspicion that evidence of a prohibited item will be found in a particular student storage, the procedures set out in Section 4.a. below shall be followed.~~

### ~~(4) Searches.~~

(a) ~~Searches Pursuant to Administrative Procedure. If the principal~~there  
has been a violation of a law, District policy, or school rule or policy, and  
the official has a reasonable suspicion that ~~a prohibited item is on a~~  
~~student's~~

## ~~4.30.040-P Search And Seizure~~

~~person or in a particular student's storage area, the following procedure shall apply:~~

~~(A) Request for Authorization. The principal shall obtain verbal authorization from the assistant superintendent or designee or, in his/her absence, the Director of Student Achievement to the search. The assistant superintendent or designee or the Director of Student Achievement shall maintain a written record of the authorization given. If it appears necessary to search beyond outer clothing, the School Police shall be contacted for assistance in the search and its standards and procedures shall apply; will produce evidence of that wrongdoing. Parents/guardians shall be notified after a search of a student's person or property and shall be informed of the results of the search.~~

~~(B) Emergency Search. If there is not sufficient time to obtain authorization and the principal has a reasonable suspicion that he/she will find an item or evidence of an item, which could create an immediate danger to persons or property, the principal may conduct an emergency search of a student or student storage without prior authorization. If it appears necessary to search beyond outer clothing and if the immediate danger will permit a delay, the School Police shall be contacted for assistance in the search and its standards and procedures shall apply;~~

~~(C) Assistance to Principal in Conducting Search. Unless an emergency situation prevents it, the principal shall be assisted in the search by a responsible adult;~~

~~(D) Student Present at Search. It is recommended that a student be present at any search of the student's assigned storage unless the student will, in the judgment of the principal, use physical force against the person conducting the search or disrupt the school. The student shall open the lock if requested;~~

~~(E) Disposition of Prohibited Items. Items held after a search shall be held by the school if needed as evidence, but otherwise shall be released to the student or the student's parents (guardians), except that stolen property shall be returned to its owner or police and contraband will be destroyed or held for school police.~~

~~(b) Searches by Law Enforcement Officers. A search of a student's person or assigned student storage may be conducted by law enforcement officers in accordance with law.~~

~~(c) Limitations on Searches. Except for a search provided in Sections 4.a. and 4.b. above or unless the student gives prior consent to the~~

## ~~4.30.040-P Search And Seizure~~

~~particular search, a student's person or assigned student storage area shall not be searched. School authorities may not consent on behalf of a student to a search of the student's person or storage area.~~

### ~~(5) Definition of "Principal". As used in Section 4~~

- ~~(a) The term "principal" shall include, in high schools, any vice principal or in his/her absence another person temporarily designated by the principal; in middle schools, the assistant principal or in his/her absence another person temporarily designated by the principal; and in elementary schools, the administrative assistant, or if there is none, then in the absence of the principal from the school, any other staff member designated by the principal.~~
- ~~(6) **Reports of Searches.** Promptly following each search, the principal shall submit a Report of Search to the assistant superintendent. The report shall include the identity of the person or student storage; the time of the search; whether the search was under warrant or by administrative procedure; the identity of the person conducting the search; the persons present; the items, if any, taken; and if known, the intended disposition of these items. If the search was by administrative procedure, the report should also state the type of initial authorization (verbal or emergency) and the facts giving reason for the reasonable suspicion that a prohibited item was present. A copy of each Report of Search shall be kept on file at the school.~~
- ~~(7) **Reports to the Board.** The superintendent shall, from time to time, submit a report to the Board, which shall include, by school, the number of searches conducted and whether a person or student storage was searched.~~

~~**Student Information.** Notice of Section 1 through 7 of this policy shall be made available to students and parents (guardians) as a part of the Handbook on Student Responsibilities, Rights and Discipline or Guide to Policies, Rules and Procedures on Student Responsibilities, Rights and Discipline.~~

## 2. Racial Equity & Social Justice Framework

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justice system and resulting presence of bias in the interpretation of reasonable suspicion. In alignment with PPS vision and values, the District will adopt practices that confront and eliminate bias in the interpretation of reasonable suspicion.

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Students and parents/guardians shall be notified of the District's policy regarding search and seizure in readily-available materials, such as the Student Handbook [insert link]. Students and parents/guardians will also be notified of complaint procedures available to them.

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Parents/guardians shall also be notified and must provide consent before any law enforcement conducts an interview of a student who is the subject of an investigation taking place on District premises. Parents/guardians of potential witnesses or victims shall also be notified before law enforcement officers conduct an interview on District premises, although administrators may make exceptions in instances where this notice may deter a student who is the victim of a crime from reporting. Pursuant to Oregon law, parents/guardians may not be notified when the child is interviewed as a suspected victim of child abuse. In situations where there is an imminent threat to safety or security, there may not be an opportunity to notify parents prior to law enforcement intervention. By law, school administrators may not interfere with the arrest of students.

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For more information about the process by which school officials may conduct a search or seizure of students or their property, the nature and types of prohibited property, and other details on the implementation of this policy, please see the related Administrative Directive [insert link].

### **7. Definitions**

- a. Reasonable suspicion is a standard of proof that is based on specific facts that can be described, as well as the rational conclusions that can be drawn from those facts. Examples of reasonable suspicion may include, but are not limited to, eyewitness

observations by school personnel; information from a source deemed reliable;; recognizable smell of alcohol, tobacco, or marijuana; or other unusual behavior.

- b. **Interview by law enforcement** means the intentional questioning of a student when the student feels they do not feel free to leave a room or disengage from the conversation. Students seeking out and engaging in conversations with law enforcement during the course of the school day is not an interview.
- c. **Parent/Guardian** is the person who has been identified in school records as having a custodial relationship with the student.
- d. **Imminent threat** is an immediate threat of serious bodily injury to self or others or death.
- e. **Subject of an Investigation** is a person whose conduct gives rise to a suspicion that the person may have engaged in illegal activity.

(8)

Legal References: ORS 332.075; ORS 419B.010 - 419B.045; OAR 581-021-0050 to -0075; ORS 332.107

History: Adpt 8/27/73; Amd 5/84; Amd 10/25/84; Amd 10/13/88; Amd 10/25/90; Amd 9/9/02; BA 2420  
~~Letter Opinion, Office of the Attorney General (May 25, 1984); Amd 6/20~~  
~~Letter Opinion, Office of the Attorney General (August 18, 1986)~~



# PORTLAND PUBLIC SCHOOLS

## OFFICE OF GENERAL COUNSEL

501 North Dixon Street / Portland, OR 97227

Telephone: (503) 916-3570

**Date:** June 11, 2020  
**To:** School Board  
**From:** Liz Large, Interim General Counsel  
Mary Kane, Senior Legal Counsel  
**Subject:** Search and Seizure Policy 4.03.040-P

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### 1. SUMMARY & RECOMMENDATION:

This policy had not been updated since 2002 and did not fully reflect the District's vision of the educational experience we want to provide to our students. Embedded in this policy are additional protections for students, primarily in the requirement that parents and guardians be provided notice, and give consent, prior to student interviews by law enforcement. Additionally, the policy now contains a definitions section to assist students and administrators in better understanding the standard of evidence and other factors involved in a search. Finally, the policy now requires the District to track all searches conducted on District property. The updates continue the District's goal of protecting student's rights while also providing for the safety of all students and the General Counsel's office recommends approval of the amendments.

### 2. STATE LAWS AND RELATED POLICIES:

State and Federal guidance include: Article 1, sec. 9 of the Oregon Constitution and 4<sup>th</sup> Amendment of the U.S. Constitution; *Riley v. California*, 134 S.Ct. 2473 (2014); *N.J. v. T.L.O.*, 469 U.S. 325 (1985); *State ex rel Juv. Dept. of Clackamas County v. M.A.D.*, 348 Or. 381 (2010).

### 3. DEVELOPMENT PROCESS AND RESEARCH:

In addition to being grounded in the legal requirements, and with the assistance of our Director of Community Engagement and Senior Advisor of Racial Equity and Social Justice, we received input from students and families about their experiences and concerns and their contributions have informed this policy.

### 4. INTERNAL / EXTERNAL STAKEHOLDER ENGAGEMENT:

Staff worked with stakeholders from the Departments of Student Success and Health, Student Conduct and Discipline, Security Services, Risk, Office of School Performance, school administrators, the Portland Police Bureau, the District Attorney's office, and students and families.

### 5. ALIGNMENT WITH EQUITY POLICY IMPLEMENTATION PLAN:



This policy aligns with our equity policy implementation plan.

6. BUDGET / RESOURCE IMPLICATIONS:

No identified new cost.

7. NEXT STEPS / TIMELINE / COMMUNICATION PLAN:

Notice of this policy and the administrative directive will be communicated via Admin Connects and ppscomms. We will also complete the Administrative Directive to align with the goals of the policy and disseminate it in the same manner as the policy

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*As a member of the PPS Executive Leadership Team, I have reviewed this staff report.*

\_\_\_\_\_ (Initials)

ATTACHMENTS

- A. XXXX
- B. XXXX