

PROTOCOL FOR POLICE INTERVIEWING STUDENTS ON A SCHOOL CAMPUS

Absent extenuating circumstances, police will avoid interviewing students at a school for non-school-related issues. Extenuating circumstances include officers entering school premises in "hot pursuit" of a suspect, or ongoing investigation of a serious nature or felony, or for child abuse investigation, or in response to an emergency, or crime being committed on school property.

1. Initial Contact

The officer is expected to properly identify himself/herself to the principal or other designated administrator and state the purpose of the visit.

2. Preliminary Discussion

The administrator and officer shall discuss whether it is necessary to handle the law enforcement business at the school site. Final responsibility rests with the officer to determine whether the law enforcement business should take place at the school site. (Should a student that is identified by law enforcement be a special needs student, the school administrator will consult the Individual Education Plan (IEP) to determine if any accommodation must be

made for the student. If a student is a second language learner, the administrator should determine if a translator is necessary.)

3. Privacy

Except in an emergency or other circumstances justifying other action, the student should be routinely summoned to the school administration office so that the law enforcement contact or arrest does not occur in the presence of the other students. The entire matter should be handled in a manner calculated to minimize embarrassment of the student and the need to provide confidentiality for the "minor" student.

4. Interviews

When the student arrives at the administrator's office for an interview with the officer, the school administrator will follow the local school district Board Policy regarding the notification of parents (school Board Policy can/should not supercede or be in conflict with the law). It is the responsibility of the law enforcement officer to meet any legal requirements from a law enforcement perspective relating to advising a student of constitutional or statutory rights. If it is found to be appropriate to question a student and if the parent/guardian is not present during the questioning, the investigating officer will inform the student that if requested, the administrator may remain in the

room with the police officer and the student to witness the questioning. If the parent/guardian is present and requests to witness the interview, the administrator shall so advise the law enforcement officer. The law enforcement officer shall then decide whether and how to proceed.

The law enforcement officer may, depending on the events/circumstances of the investigation, disallow parent and/or school district staff presence during the interview.

5. Arrests/Custody in Cases not Involving Child Abuse/Neglect

When an administrator releases the student to the custody of a law enforcement officer, immediate steps to notify the student's parents/guardian (within one hour) need to be taken by law enforcement or school staff.

6. Custody Involving Child Abuse

If the officer decides to take the student into custody, the administrator shall not contact the parent/guardian, but shall provide the officer with the address and telephone number of the parent/guardian in order to assist the officer's compliance with the legal notice requirements applicable to such cases.

REFERENCES

Attorney General's Opinion No. 58-58

"When it is necessary in the performance of his duty for a peace officer to arrest or question a minor while the latter is in attendance at school, the officer is empowered to do so. In taking such action, due consideration and recognition must be given to the rights and responsibilities of the school personnel.

Whenever possible, the school officials should be consulted before the police act. Parental consent is not a prerequisite to arresting or questioning a child, or removing him from school so as to accomplish these ends. Even so, the parents or guardians should be immediately apprised of the action."

Attorney General's Opinion No. 71-28

"Peace officers have the right to interview suspects or witnesses who are students, while those students may not be infringed by police officers, school officials are not required to nor should they attempt to prevent such interviews.

Absent a breach of a school official's duty toward a student in releasing a student to a peace officer, school officials are not civilly liable for releasing students for this purpose."

Education Code 32212

Education Code 48906

Education Code 48264

Penal Code 11165

Welfare and Institution Code 308

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