

Board Policy

Questioning and Apprehension

BP 5145.11

Students

The Board of Trustees believes that the safety of District students and staff is essential to achieving the goal of student learning.

The Board of Trustees recognizes that the safety of students, staff and other persons on school grounds and at school related activities or events may require the presence and involvement of law enforcement. The Board expects its employees to respect and maintain the dignity of every student while in situations that may subject students to questioning and/or apprehension by law enforcement.

Interviews of District Students by Law Enforcement

Law enforcement officers may enter a school site as part of a school-related and non-school related issue to interview students as suspects or witnesses. For non-school related matters, absent extenuating circumstances such as child abuse/neglect or felony investigations, law enforcement officers shall refrain from interviewing District students on school grounds or at school related activities or events.

When any law enforcement officer requests an interview with a student, the principal or designee shall obtain the officer's identity, and verify that the interview is part of an official investigation.

When the student law enforcement seeks to interview has an individualized education plan ("IEP") or a plan under section 504 of the Rehabilitation Act of 1973 ("504 Plan"), or is an English Language Learner ("ELL"), and the principal or designee provides notice to the student's parent/guardian of law enforcement's desire to interview the student, the principal or designee shall request authorization from the parent/guardian to notify the officer that the student has an IEP or section 504 plan, or is ELL.

The principal or designee shall notify the student's parent/guardian as soon as practicable after the law enforcement officer has interviewed the student on school premises, except in cases of child abuse or neglect, or when the student is subject to interrogation by law enforcement and/or has been taken into custody.

The principal or designee shall work with law enforcement to accommodate the interview in a way that causes the least possible disruption for the student and school and provides the student appropriate privacy.

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At the law enforcement officer's discretion and with the student's approval, the principal or designee may be present during the interview.

Interrogations of District Students by Law Enforcement

Except in cases of child abuse or neglect, the principal or designee shall take immediate steps to contact the parent/guardian to obtain oral consent before law enforcement may interrogate a minor student who is suspected of committing a crime and has been taken into temporary custody. The parent/guardian shall be given a reasonable opportunity to be present for any interrogation of a student who is in the temporary custody of law enforcement.

The parental notice requirement for interrogation is intended to apply to targeted interviews after a student or students have been identified as potential suspect(s) of a criminal offense. It does not apply to interviews of a victim (unless a victim requests that a parent or guardian be notified) and witnesses nor does it apply to initial investigative encounters of students unless and until an on-scene detention has been made.

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.

Prior to any interrogation by law enforcement of a student who is in temporary custody, and before any waiver of Miranda rights is made by a student 15 years of age or younger, the student shall first consult with legal counsel either in person or by telephone, or by video conference. The student or his/her parent/guardian may not waive this right to consult with legal counsel prior to a custodial interrogation or prior to a waiver of Miranda rights. (Welfare & Institutions Code § 625.6)

Apprehension of District Students by Law Enforcement

In an effort to minimize disruption to the learning environment, law enforcement officers should consider the reasonableness of making an arrest when students are actively participating in classroom instruction. When considering whether it is reasonable to arrest a student on campus, the officer should consider the following:

- The seriousness of the offense
- Whether the arrest is able to be effected by other means

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- Whether there is an imminent threat to public safety. The apprehension of District students by the District Department of Public Safety (“Department”) requiring a vehicle and/or foot pursuit shall be done in accordance with the Department Policy Manual at Sections 314 and 457.

Transportation of Students by the District Department of Public Safety

School administrators shall not request transport of students by law enforcement after students have misbehaved and/or are disciplined. District Department officers may only, absent exigent circumstances, transport a student home if requested by the parent/guardian and/or when in compliance with District Department Policy Manual at Section 324, “Temporary Custody of Juveniles.”

Records of Student Interviews and Removals by Law Enforcement

The principal or designee shall maintain a record of law enforcement interviews of District students at the school site and the removals by law enforcement of District students from the school site. The District shall maintain a central database that shall include the information submitted by site administrators related to student interviews and removals as provided for in Administrative Regulation 5145.11. The data to be collected by staff and electronically stored in a District database is reflected in the Student Interview/Removal Log, which is an Exhibit to this policy.

Although subpoenas may legally be served at school on students age 12 or older, the Board believes that serving officials should be strongly urged to serve subpoenas at the home of the student or other non-school location whenever possible. When served at school, the principal or designee shall take reasonable steps to minimize the student’s embarrassment and protect the student’s privacy and loss of class time.

Policies for Responding to the Detention or Deportation of a Student's Family Member

The District shall encourage that families and students have and know their emergency phone numbers and know where to find important documentation, including birth certificates, passports, Social Security cards, doctors' contact information, medication lists, lists of allergies, etc., which will allow them to be prepared in the event that a family member is detained or deported.

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The District shall permit students and families to update students' emergency contact information as needed throughout the school year, and provide alternative contacts if no parent or guardian is available.

The District shall ensure that families may include the information of an identified trusted adult guardian as a secondary emergency contact in case a student's parent or guardian is detained.

The District shall communicate to families that information provided within the emergency cards will only be used in response to specified emergency situations, and not for any other purpose.

In the event a student's parent/guardian has been detained or deported by federal immigration authorities, the District shall use the student's emergency card contact information and release the student to the person(s) designated as emergency contacts. Alternatively, the District shall release the student into the custody of any individual who presents a Caregiver's Authorization Affidavit on behalf of the student. In the event a student's parent/guardian has been detained or deported by federal immigration authorities, the District shall only contact Child Protective Services if the District personnel are unsuccessful in arranging for the timely care of the child through the emergency contact information that the school has, a Caregiver's Authorization Affidavit, or other information or instructions conveyed by the parent or guardian.

Citing References:

BP/AR 0450 - Comprehensive Safety Plan

BP 1400 - Relations Between Other Governmental Agencies and the Schools

BP/AR 3515.3 - District Department of Public Safety

BP/AR 4158/4258/4358 - Employee Security

BP/AR 5141.4 - Child Abuse Prevention and Reporting

BP/AR 5145.12 - Search and Seizure

Legal References:

EDUCATION CODE

44807 Duty concerning conduct of pupils

48263.6 Chronic truant

48264 Arrest of truants



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48265 Delivery of truant

48902 Notice to law authorities

48906 Release of minor pupil to peace officers; notice to parent, guardian

48909 Narcotics and other hallucinogenic drugs (re arrest)

CODE OF CIVIL PROCEDURE

416.60 Service of summons or complaint to a minor

PENAL CODE

830-832.-17 Peace officers

11165.6 Child abuse or neglect

1328 Service of subpoena

WELFARE AND INSTITUTIONS CODE

305 Temporary custody

625.6 Right to consult with legal counsel

627 Custody of minor

CODE OF REGULATIONS, TITLE 5

303 Duty to remain at school

ATTORNEY GENERAL OPINIONS

54 Ops. Cal. Atty. Gen. 96 (1971)

34 Ops. Cal. Atty. Gen. 93 (1959)

Replaces BP 5145.11 (8/20)