

# S-7: Administrative Procedures

## Law Enforcement Access to Students and Student Records



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### REFERENCE

[Board Policy S-7](#)

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### DEFINITIONS

**Law Enforcement Interview:** An interview conducted by any law enforcement officer or state agency employee investigating alleged criminal behavior. This includes interviews by school resource officers only when the purpose of the interview is criminal investigation and prosecution. It does not include interviews by school resource officers acting to maintain school safety or interactions for training, counseling, performing outreach, assisting with or teaching crime prevention programs, and acting as a positive role model.

**Principal:** For the purposes of these administrative procedures, “principal” refers to the principal or his or her designee.

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### PROCEDURES FOR IMPLEMENTATION

#### I. Cooperation with Law Enforcement

The district recognizes that cooperation with law enforcement personnel is essential in matters affecting the health, welfare, and safety of students and the community. Nothing in these procedures is intended to obstruct the ability of law enforcement personnel to discharge their lawful duties.

#### II. Law Enforcement Access to Students

- A. When law enforcement personnel seeks or is requested by school administrators to interview a student at school about a school-related incident for law enforcement purposes:
  1. The principal or other designated administrator and law enforcement agent shall meet to identify or confirm the student sought to be interviewed, and identify or confirm the reason(s) for the interview.
  2. The school administrator shall make a [written record](#) of the law enforcement agent’s request, including presentation of any legal process such as subpoenas or warrants, unless the school had initiated the request for the interview.
  3. The school administrator shall verify the identity of the law enforcement agent, if not known by the school administrator, by checking and photocopying the agent’s picture identification card, unless the agent is in uniform.
- B. If an immigration official requests access to a student, the district employee receiving that request should immediately contact the district’s executive director of policy and legal services.
- C. School principals should provide law enforcement personnel with immediate access to students for law enforcement interviews under the following conditions:
  1. The law enforcement officer presents a warrant, subpoena, or legal order that cannot be effectively executed outside of school hours.
  2. Exigent circumstances exist. Examples of exigent circumstances include, but are not limited to:
    - a. law enforcement personnel are in pursuit of a suspect on school property;
    - b. any person is in serious imminent danger;
    - c. law enforcement personnel have a reasonable belief that evidence is about to be destroyed; and
    - d. law enforcement personnel need to act promptly to prevent flight from the jurisdiction by a person suspected of serious criminal activity.
  3. The law enforcement officer is investigating allegations of child abuse. See, Board Policy S-8, Child Abuse and its accompanying administrative procedures.
- D. In the absence of any of the circumstances listed in Section II.C. above:
  1. The principal may use his or her discretion to decide if the interview should proceed.
    - a. In determining whether to allow an interview, the principal should consider relevant factors, including, but not limited to, the following:
      - i. Whether the law enforcement officer has made efforts to contact the student during non-school hours.
      - ii. Whether the law enforcement officer could return later.
      - iii. The age and maturity of the student. Absent compelling circumstances, the district presumes that students under the age of 14 should not be interviewed without the consent of their parents or guardians.
      - iv. The extent of interruption to the student’s school day.

- v. The nature of the proposed interview, i.e. whether the student is a non-suspect witness or a suspect.
      - vi. Any potential negative effects on the school community caused by allowing the interview.
2. Absent exigent circumstances, interviews of students by law enforcement personnel about matters unrelated to school should generally be conducted away from school after school hours.
3. If the principal determines the interview should go forward at this time, the principal should attempt to notify a parent or guardian of the request for an interview, and document, in writing, that attempt.
  - a. If a parent or guardian is contacted, and the parent conditions consent on being present, then absent exigent circumstances, the interview should be delayed until the parent arrives.
  - b. If a parent or guardian cannot be contacted, the principal must decide whether to allow the interview to proceed without parental notification.
    - i. Typically, without parental notification or consent, interviews should only go forward when the student is a non-suspect witness to a school related incident.
  - c. If the principal is unable to contact the parents pre-interview and the interview goes forward, then following the interview the principal shall inform the parent, in the most direct manner possible, of the officer's name who conducted the interview and the time, date, and duration of the interview.
4. If the student refuses to speak to law enforcement personnel, the interview may not proceed on school grounds.
5. If the interview is conducted, the principal or other school official should be present during the entire interview, unless the student requests otherwise.
6. Absent an emergency or circumstances justifying other action, all interviews of students should be conducted in private, to avoid disrupting school, protect the student's privacy, and preserve the integrity of the investigation.

### **III. Principal Involvement in Law Enforcement Interviews**

- A. The principal should document all interviews of students by a law enforcement agent held in the principal's presence.
- B. The principal should request the law enforcement officer: inform the student at the outset of the interview as to whether or not s/he is a suspect in a crime; and subsequently inform the student if s/he becomes a suspect during the course of the interview.
  1. Upon notification that the student has become a suspect, if the principal had not previously notified the student's parent and obtained parental consent, unless exigent circumstances exist, the principal should require that the interview cease and be conducted at the police department, or that it cease until notification and consent of a parent can be obtained.
- C. It is not the principal's responsibility to advise the student of his/her *Miranda* rights.
- D. The principal should not participate in the interview on behalf of the law enforcement officer.
- E. If the student requests that the interview be terminated, the principal should require that the interview be terminated.

### **IV. Law Enforcement Searches**

- A. The principal should not allow law enforcement to conduct body searches of students without a warrant; however, "frisking" does not require a warrant if a law enforcement officer states that s/he has reason to believe it is necessary to ensure the safety of an individual.
  1. In the event of an arrest, the student will likely be searched. Unless the student requests otherwise, the principal or another school official who is of the same gender as the student, should be present while the student is searched.
- B. Searches of lockers by a law enforcement officer should not be permitted unless:
  1. there is an appropriate warrant, subpoena, or other legal order; or
  2. the law enforcement officer verifies probable cause exists to conduct the search.

### **V. Law Enforcement Access to Student Records**

- A. Certain student information is designated by the district as directory information and may be released without prior written consent of a parent or guardian. The district will comply with all state and federal laws, including the Family Educational Rights and Privacy Act (FERPA), when disclosing student information. See, Board Policy S-2, Student Records, Privacy Rights, and Release of Information, and its accompanying administrative procedures; the Family Educational Rights and Privacy Act; and the district's Annual Notice for specific information regarding release of student information.

- B. In the absence of a subpoena, warrant, legal order, or parental consent, student information not designated as directory information should not be made available to law enforcement personnel, other than student resource officers acting to maintain school safety or for other educational purposes.
  - 1. Any information shared with a school resource officer acting to maintain school safety or for other educational purposes may not be used for any other purpose, nor shared with any other law enforcement officer.
- C. If an immigration official requests access to a student record, the district employee receiving that request should immediately contact the district's executive director of policy and legal services.
- D. Students who are emancipated or over the age of 18 may consent to the release of their own records or information to law enforcement personnel.

**VI. Appropriate Dissemination of Information Received from Law Enforcement**

- A. Within three days of receiving notification from the juvenile court or a law enforcement agency that a student has been adjudicated or taken into custody or detention for a violent crime or a crime involving a weapon, the superintendent or his/her designee will notify the principal of the school that the student attends or last attended.
  - 1. This notification is classified as a protected record under Utah Code Ann. §63G-2-305, Protected Records.
- B. Upon receipt of this information, the principal will make a notation in a secure file other than the student's permanent cumulative record.
- C. If the student is still enrolled, the principal will notify staff members, who, in his/her opinion, have a need to know the information.
- D. Any person receiving this information may only disclose the information to other persons who have both a right and a current need to know.
- E. Access to the student's secure file will be limited to persons authorized to receive the information.