

INTERROGATIONS, SEARCHES AND SEIZURES

Arrests

1. When possible and appropriate, arrest by police should be made during non-school hours and away from school premises. This excludes on site arrests made by a School Resource Officer pursuant to normally assigned duties.
2. Arrest on school premises during school hours should be undertaken in such a manner as to avoid embarrassment to the student being arrested and to avoid jeopardizing the safety and welfare of other students.
3. In the event a student is taken into custody during school hours, the principal or designee should summon the student to his/her office before surrendering the student. Unless the safety of the students and school staff will be compromised if an arrest is delayed, the officer should not appear in the classroom to make a physical arrest.
4. If the student is to be surrendered to the custody of the police officer, the principal or designee should record the name and organization of the officer, the time the officer leaves the school, the destination (police station, detention facility, or Family Court), and the offense for which the arrest was made. A substantial effort should be made by the principal or designee to immediately contact the parent(s) or guardian(s) of the student of any contact by the police. If the student is arrested and removed from the premises before such contact is made, the police and the principal or designee each have the responsibility for that contact.

Questioning or Interrogation by Police on School Property

1. Police investigations involving the questioning or interrogation of students should not be permitted on school premises unless in connection with a school-related crime committed or in connection with an investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of the student or other persons. Questioning becomes interrogation when it becomes accusatory in nature and is designed to elicit an admission of guilt from the suspected offender. Law enforcement officers must provide Miranda warnings when questioning becomes interrogation.
2. The principal or designee shall be present throughout the questioning or interrogation that occurs on school property, except in cases in which the investigation concerns a student who is the victim of physical or sexual abuse where a member of the student's immediate family or household is suspected of being the perpetrator of or a conspirator in such abuse and where the police investigator is a representative of a special unit trained to do such interviews.

3. In any case in which a student is in custody and being questioned regarding involvement in a criminal matter and the student's Fifth Amendment protection against self-incrimination may apply; the law enforcement officer should consider the environment in which questioning takes place and the ability of the student to discontinue the questioning. Unless unreasonable to do so, the law enforcement officer should notify the principal or his designee when such questioning becomes custodial in nature. Questioning becomes "custodial in nature" when a law enforcement officer is conducting an interview and the party being interviewed is not free to leave the presence of the officer.
4. Before the police commence the questioning or interrogation of a minor on school premises, the principal shall make a substantial effort to contact the student's parent(s) or guardian(s) to provide them an opportunity to be present or consult an attorney. Such contact is particularly important in the case of students below the high school level. Questioning or interrogation without such parental contact should only proceed when one or more of the following conditions exist:
 - a. The contact may endanger the safety of the student or other persons.
 - b. The contact would compromise the success of the investigation because a member of the student's immediate family or household is suspected of being a perpetrator or conspirator or potential conspirator to a crime, or the delay caused by lack of contact would compromise the success of the investigation and a substantial effort has been made to contact the student's parent(s) or guardian(s) without success.
 - c. The police will ensure that the student is afforded all constitutional rights due in such a situation.
5. School officials may request the arresting officer remove the student from the premises as soon as possible, after the arrest is made.

Search and Seizures

1. Law enforcement officers in reliance upon probable cause that a crime is, has, or is about to be committed, may search for evidence of that crime. Whenever reasonable, a search warrant issued by a court of competent jurisdiction will be sought before a search is conducted. As a general policy and when agreed upon to do so, a school official will accompany the law enforcement officer on searches that are conducted on school property. School officials will not participate in the actual search unless specifically requested to do so by the police.
2. Efforts should be made by police and school administrators to conduct searches in a manner that will minimize disruption of the normal school routine and will minimize embarrassment to students affected.

3. A frisk (pat-down) may be conducted by the police when the officer has reason to believe that the person being encountered is armed or presents a risk of injury to the officer or an innocent third party.

The principal or designee may, at any time, conduct such searches as are essential to the safety, security, discipline, and sound administration of the particular school. Upon completion of such searches, the principal or designee shall notify the student's parent/guardian of the search and reason for the search. The appropriate police agency will respond to a request from a school official conducting an administrative search when the official feels that the search might reveal a violation of the law.

Reporting Crimes

School officials are charged with the responsibility to provide for the safety of students and for the security of school property. The Delaware Code mandates reporting of the offenses listed in 14 Del.C., § 4112; a substantial fine can be assessed against any superintendent, principal, or school employee who fails to make such a mandatory report.

Required mandatory reporting of criminal violations to police if the student, school employee or school volunteer is the victim of the following crimes which occurred on school property or at a school function:

- A violent felony
- Assault III
- Unlawful Sexual Contact III

NOTE: *Offensive touching or terroristic threatening against a school employee is not a mandatory report to police. However, it is still a required report to the Department of Education via e-School Plus.*

Required mandatory reporting of criminal violations to police if the school employee is the offender and the student is the victim of the following crimes which occurred anywhere:

- A violent felony
- An Assault III
- Any sexual offense

Required mandatory reporting of criminal violations to police if the student is the offender of the following possession crimes:

- Possession of any unlawful controlled substance
- Possession of any deadly weapon, destructive weapon, dangerous instrument or incendiary/explosive device

NOTE: *In all of the instances the staff is to report to the police what is believed to be a crime committed. The police will determine probable cause for arrest.*

Misdemeanors (Assault III and USC III) committed by children under the age of 12 **do not** have to be reported to the police but *must be reported to the Department of Education.*

Violent felonies committed by children under the age of 12 *must* be reported to the police and the Department of Education.

1. Reportable offenses should not include conduct which has been traditionally treated as a matter of discipline to be handled at the discretion of school administrators. Whenever an administrator is unsure about whether a charge is appropriate, the applicable police authorities should be consulted. These reporting requirements shall not apply to offenses committed between students enrolled in grades kindergarten through third grade.
2. All conduct of a serious nature should be promptly reported to the parent or guardian concerned. Such persons should not be contacted where the student is the victim and the parent / guardian is a perpetrator of or conspirator.
3. The school district superintendent or designee is required to report to the State Department of Education those incidents involving possession of weapons and unlawful drugs, [14 Del.C., §4112(c)], and incidents of violence against students or school employees, [14 Del.C., 4112(b)].

Filing of Charges

1. In any instance where a student, parent or guardian is found to have committed an assault, offensive touching, terroristic threatening or an extortion under 14 Del.C., §4112(b) against a school employee, the superintendent or his/her designee shall, without unreasonable delay, file the appropriate charge against the student, parent or guardian.
2. In all cases where a reportable offense has occurred, other than those listed in subparagraph 1., immediately above, school officials should consult with police authorities to determine who will file the appropriate charges.

School Disturbances

1. The request for police assistance in a crisis situation requires special care because of the possibility of an escalating situation.
 - a. It is preferable that the principal or designee call the police. If a law enforcement officer is on the scene, it is desirable that the decision to call for additional police support be reached in collaboration with that officer.
 - b. No person other than the principal or designee, the superintendent of the district or his/her designee, or the highest ranking police officer present and qualified, may request the tactical deployment of police to a school.
 - c. Police manpower called to a school should be limited to that number which may reasonably be expected to be required to deal with the situation. This determination as to the level of force required can best be

made by the ranking police officer on the scene, working jointly with the principal or designee.

2. In general, plain clothes officers are preferable to uniformed personnel in situations where student or faculty sensitivity may crucially influence the success of the short-term investigation required by the law enforcement agency. These sensitive situations will include most investigations where student informants must come forward and most situations where inter-group tension may be intensified by the presence of uniformed officers. It is recognized that in many situations it may be impossible to specify whether uniformed or plain clothes officers will or shall make the initial response to a routine school request, and for that reason, the Board of Education must recognize that any policy governing the use of these different categories of police officers must be flexible and that final authority rests with the police.
3. Tactical coordination between the principal or designee and police officers on the scene is a necessity. During any crisis situation, it will be the responsibility of the ranking police officer on the scene to ensure that direct, secure, continuing communication with the principal or designee is maintained.

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