

**QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT**

***Police officers are responsible for criminal law issues, not school discipline issues.*** School administrators and other school personnel shall not call upon law enforcement officers to handle routine discipline problems involving students. School administration will be responsible for handling these issues except those that include criminal behavior, per Education Code 48902 (possession or sale of narcotics or controlled substance, assault with a deadly weapon or firearm, possession or possession/discharge of a firearm).

In all matters involving the police, the role of the administrator is clear: he/she must act to safeguard the student's rights because of his/her *in loco parentis* (i.e., "in place of the parent") relationship. Training on the administrator's *in loco parentis* role shall be provided to all district administrators annually and on an as-needed basis.

***Absent extenuating circumstances, police will avoid interviewing and apprehending students at a school for non-school-related issues.*** Extenuating circumstances shall include, but not be limited to, 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.

Law enforcement shall make every effort to handle law enforcement related issues that are not school-related outside of school.

**Questioning**

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. A request by a student to have a parent/guardian present may be interpreted by the courts as an invocation of the right of the student to remain silent.

**A: Questioning of K-8 Students**

1. Before making an elementary school pupil (any student in grades K-8) available to a peace officer who has asked to question students, the principal of the elementary school, or his or her designee, shall take immediate steps to obtain the oral

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consent of the parent or guardian of the pupil to permit the questioning. Student shall also be informed that he/she has the right to remain silent and to request for the presence of parent or guardian. [EJS 1]

2. If the parent or guardian requests that the pupil not be questioned until he or she can be present, the pupil may not be made available to the peace officer for questioning until the parent or guardian is present.
3. If school officials are unable, after reasonable efforts, to contact a parent or guardian in order to obtain consent pursuant to this subdivision, a district site representative who is not a suspect shall be selected by the pupil to be present during the questioning.
4. In those cases in which school officials are unable to contact the pupil's parent or guardian until after the questioning has been completed, the principal or his/her designee shall immediately notify the parent or guardian that the questioning has occurred and make the staff member selected by the pupil available to inform the parent or guardian about the questioning.

**B. Questioning of 9<sup>th</sup>-12<sup>th</sup> students**

1. Before making a secondary school pupil (any student in grades 9-12) available to a peace officer who has asked to question students, the principal of the school, or his or her designee, shall inform the pupil that the pupil has the right to request the presence of his/her parent or guardian or a district site representative who is not a suspect during the questioning. Student shall also be informed that he/she has the right to remain silent. [EJS 1]
2. If the person selected by the pupil cannot be made available within a reasonable period of time, the principal or his/her designee shall inform the pupil that the pupil may select an

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alternative member of the school faculty or staff who is not a suspect and who is reasonably available to be present during the questioning.

3. If the pupil exercises his/her right pursuant to this subdivision to have an individual present pursuant to Subsections 1 and 2, the pupil may not be made available to the peace officer for questioning until one such person is present. [AG 1]

**C: Exceptions**

Sections A and B do not apply if any of the following conditions exist:

1. The peace officer is in possession of a warrant or other court order, or the officer reasonably believes that due to exigent circumstance, his or her inability to immediately question the pupil will materially interfere with the ability of the officer to conduct an investigation or would present an immediate risk of serious harm to the pupil or anyone else on or around campus. The officer shall execute a declaration confirming the existence of such exigent circumstances. In the case of an elementary school pupil being questioned pursuant to this paragraph, a District site representative who is not a suspect shall be selected by the pupil to be present during the questioning and the principal or his or her designee shall take immediate and continuous steps to notify the parent or guardian by telephone regarding the questioning, and if unsuccessfully in doing so before the questioning is completed, shall take immediate steps to notify the parent or guardian regarding the questioning after it has been completed.
2. The minor pupil being questioned is suspected of being a victim of child abuse as defined in Section 11165.6 of the Penal Code, or the minor pupil is being questioned pursuant to Section 305 of the Welfare and Institutions Code, and either the principal or his or her designee or the peace officer has a reasonable belief that the pupil would be endangered by the above-referenced notification requirements.

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3. The peace officer's questioning of the pupil concerns the commission of criminal activity by the parent or guardian of the pupil. The principal shall inform the pupil that the pupil has the right to request that a member of the school administration, a school counselor, or a school teacher selected by the pupil may be present during the questioning.
4. The pupil is on probation and is being interviewed or otherwise contacted by a probation officer in the normal course of duties of the probation officer.
5. The site administrator, acting on behalf of the District, has contacted the police agency, requesting that an officer be present to assist in an investigative process. In such an event, the assisting officer need not execute a declaration regarding the issuance of a court order or the presence of exigent circumstances.

**Apprehension**

Police officers, officers of the juvenile court, and other authorized law enforcement officials have an absolute right to enter a school to take a student into custody or to make a lawful arrest of a student. The officer shall display either an authorization order signed by a judge of the juvenile court or a warrant for the student's arrest.

A warrant shall not be necessary if the officer has reason to believe that the student committed a violation of law and makes an oral statement to this effect, as witnessed by one or more school employees with at least one being a school administrator or designee. If the arrest is made not pursuant to a warrant, the school administrator or designee shall inquire as to the reason for the arrest by the officer prior to releasing the student into the officer's custody.

If the student is arrested, the principal or designee shall release the student into the custody of the officer and shall immediately telephone the

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parent/guardian or responsible relative. The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian.

When a student is removed from campus, the administrator must work with law enforcement to ensure that the removal of the student is conducted in such a way that it safeguards the dignity, confidentiality and respect of the student.

Site administration must notify the Superintendent or designee of the arrest by completing the "Removal of Pupil from School During School Hours by a Peace Officer" form and faxing a copy to the Child Welfare, Attendance & Safety Office at (626) 793-9858.

**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. Site administration should notify the Superintendent or designee of the incident by completing the "Removal of Pupil from School During School Hours by a Peace Officer" form and faxing a copy to the Child Welfare, Attendance & Safety Office at (626) 793-9858.

**Privacy**

Except in an emergency or other circumstance 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 other students. The entire matter should be conducted in a manner calculated to minimize embarrassment of the student and the need to provide confidentiality for the "minor" student.

**Record of Interviews**

The school shall keep a record of any interviews of students by law enforcement officers on school premises for the purpose of a felony investigation or any disciplinary action over and above a suspension. School

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site administrators shall complete a “Law Enforcement Contact” report. A copy of the report must be faxed to the Child Welfare, Attendance & Safety Office at (626) 793-9858. A copy of the report must be retained in an administrative file created specifically for these reports. No copies of the report shall be placed in student files.

**Regulation**

**PASADENA UNIFIED SCHOOL DISTRICT**

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Pasadena, California

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