

FHBA: Interviews by Police

When there is a need for a police officer to interview a student, the officer is to be requested to confer with the student at a time when he/she is not under the jurisdiction of the school, if this can be arranged. However, when it is impractical, the officer may confer with the student during school hours, provided that the following conditions are met:

1. The officer is properly identified.
2. Permission from a school official is given.
3. Parents are notified immediately, if possible.
4. Normally student(s) are removed from the classroom by school personnel only, to guard against other students knowing about the matter.
5. The student's parent or guardian should be present during the conference if possible.
6. If the parent or guardian cannot be present, then a school official should sit in the conference in the parent's stead.
7. The students will be afforded the same rights they have outside of the school. When they are suspected of having committed an unlawful act they must be informed of their constitutional rights by the police. They must not be subjected to coercion or illegal restraint.
8. When police officers are acting on behalf of the Department of Human Services in the investigation of a report of child abuse, Policy FFEB/FHBB shall apply.

Police Officer's Rights with Regard to Students

1. **Right to Question Students in School:** Police officers have no absolute right to enter the school premises and demand to interview any student. A spirit of cooperation should be extended to any bona fide police or law enforcement official who comes to a school seeking to interview students.
2. **Right to Remove Students from School:** Police officers have no right to remove a student from the school for purposes of interview, and this should not be allowed in the absence of the specific consent of parent or guardian.

Police officers, counselors of the juvenile court, or other authorized law enforcement officials have an absolute right to enter the school to take a student into custody or to make a lawful arrest of a student. However, the officer should be made to display either an order signed by a judge of the juvenile court authorizing the taking of the student into custody, or to display a warrant for the student's arrest. If the student is arrested and/or taken into custody at a school, the school officials should make every effort to notify the parents immediately.

3. **Right to Serve Subpoena in School:** Police officers have a legal right to enter schools to serve subpoenas.

While police officers have the legal right to serve a subpoena at school, the serving officials should be strongly urged to serve these subpoenas at the home of the student whenever possible.

In all of these situations, efforts should be made to minimize embarrassment or loss of class time for the student.

The office of the Superintendent should be notified immediately when any of the above-mentioned actions has occurred.

Cross Ref: Policy FFEB/FHBB: Interviews by Other Agencies
Policy LEA: Relations with Police Authorities
Legal Ref: NDCC 15.1-09-33: School board - Powers
NDCC 15.1-19-09: Students - Suspension and expulsion - Rules
In Interest of D. S., 263 N.W.2d 114 (N.D. 1978)
N.D. Att'y General Op. 112, 1984
N.D. Att'y General Letter, May 31, 1988, Spaeth
**[NDCC 12.1-20-16: Appointment of guardian at litem
in prosecution of sex offense
NDCC 12.1-35-04: Limits on interviews
This has to do with child/victim fair treatment standards]**

NOTE: These two legal refs are used after a criminal complaint. These refer to a person already prosecuted - - Where there is a charge filed.

**Divide County
School District**

**POLICY ADOPTED: 9/12/2006
POLICY REAFFIRMED:
POLICY AMENDED:**