

Administrative Procedure 351

INTERROGATION AND SEARCHES OF STUDENTS

Background

From time to time it will be necessary for the Principal or a member of the school staff to question a student regarding a breach of the school rules or an incident that occurred within the school. Under specific circumstances a search of student lockers may be required. Additionally, members of outside agencies, such as police officers, Child and Youth Services workers, may wish to interview a student at school during the school day.

School staff members are expected to cooperate with the police or other appropriate civilian authorities in the execution of their duties. However, staff members also have a responsibility to function in the place of the parent during school hours.

Definitions

Interview is an informal conversation with a student where the possibility of school sanctions or legal ramifications do not exist for the student. Based on the nature and duration of the interview and the age of the student, parents may be informed of the interview at the discretion of the Principal.

Investigation is a formal interrogation of a student where the possibility of school sanctions or legal ramifications exist for the student as a result of this conversation.

Arrest is the act of taking the suspect into custody.

Procedures

1. The Principal is responsible for protecting the individual rights of the student which includes informing the student of the right to have parent(s)/guardian(s) and/or counsel present during questioning.
2. Interviews and searches shall be conducted in a manner that ensures that the rights of the student are protected.
3. Only school personnel, the custodial parent or legal guardian of the student, law enforcement officers (local police officers, RCMP, police resource officers), and in some circumstances Child Welfare authorities may investigate a student on school premises.
4. Any breach of these procedures shall immediately be reported to the Superintendent.

5. Law Enforcement Investigations

- 5.1 When a law enforcement officer finds it necessary to investigate a student during school hours, the officer will report to the Principal and make known the purpose of the visit.
- 5.2 After the law enforcement officer has made known the purpose of the visit, the Principal shall contact the parent(s)/guardian(s) to advise them of the presence of the officer, and the request of the officer to investigate the student. The Principal shall inform the officer whether the parent(s)/guardian(s) and the Principal will permit the investigation with the child.
- 5.3 For students under twelve (12) years of age, once parental/guardian consent has been obtained, the Principal shall bring the student to the office. The investigation shall take place in the presence of the Principal, and of the parent(s)/guardian(s), if the parent(s)/guardian(s) choose(s) to attend.
- 5.4 For students twelve to seventeen (12 to 17) years of age:
 - 5.4.1 Once parental/guardian consent has been obtained, the Principal shall bring the student to the office. The investigation shall take place in the presence of the parent(s)/guardian(s), or if the parent(s)/guardian(s) chooses not to attend, an adult as selected by the student (5.5.3). The Principal will not automatically have the right to be present.
 - 5.4.2 If the student requests that the Principal or another staff member be present during the investigation, it is desirable that the individual comply. However, the staff member is not obligated to accept. If the request is refused, the student may select another adult to be present.
 - 5.4.3 The Principal may request to be present as a silent observer. If the Principal makes such a request, the law enforcement officer is responsible for informing the student of the request. If the student does not consent, the Principal may:
 - 5.4.3.1 Let the investigation proceed.
 - 5.4.3.2 Request that the investigation be moved from the school premises.
 - 5.4.4 Before removing a student from the school, the law enforcement officer will be requested to communicate by telephone with the parent(s)/guardian(s) and inform them of the course of action taken.
- 5.5 The law enforcement officer is responsible for advising that:
 - 5.5.1 The student is under no obligation to give a statement.
 - 5.5.2 Any statement given by a student may be used as evidence in proceedings against the student, if the student is twelve (12) years of age or older.
 - 5.5.3 The student has the right to consult with counsel or a parent(s)/guardian(s); or in the absence of a parent(s)/guardian(s), an adult relative; or in the absence of a parent(s)/guardian(s) and adult relative, another appropriate adult of the student's choice.
 - 5.5.4 Any statement made by the student must be made in the presence of the person identified in 5.5.3 above.

- 5.6 In the event that an immediate arrest of a student on school property is necessary, the law enforcement officer will normally proceed as per the Criminal Code and advise the Principal and parent(s)/guardian(s) of the arrest as soon as possible.

6. Child and Youth Services Investigations

- 6.1 When Child and Youth Services (Child Welfare) workers or law enforcement officers wish to interview a student in school for the purpose of investigating alleged child abuse or neglect, they shall report to the office of the Principal, provide adequate identification of themselves, and make known the purpose of their visit. In all cases of child sexual abuse, or physical abuse causing bodily harm, child welfare workers are required to notify the police, who will investigate to determine whether charges should be laid. Joint investigations involving both child welfare workers and law enforcement officers may occur.
- 6.2 To enable the student to speak freely and openly to the investigators, it is usually appropriate for the student and the investigators to be alone. Occasionally a student may request or require the reassuring but non-participating presence of a familiar staff member; therefore, there may be instances when the Principal and the investigators agree that a school representative is to be present during the investigation.
- 6.3 The Principal shall not notify the parent(s)/guardian(s) about an investigation. The responsibility for notifying the parent(s)/guardian(s) about an investigation is that of the investigators. While it is important for the parent(s)/guardian(s) to learn promptly that an investigation is underway, a greater concern is that the student be protected from possible abuse. Thus, in cases where intra-familial abuse may be suspected, parent(s)/guardian(s) notification by the investigators normally follows an initial contact with the student.
- 6.4 The Principal shall clarify with the investigators when contact with the parent(s)/guardian(s) will be made, particularly when an investigation begins near the end of a school day, as the student's return home may be delayed. If the investigators have not yet contacted the parent(s)/guardian(s) and the parent(s)/guardian(s) call the Principal indicating that the student has not yet returned home, the Principal will provide the investigators' names and telephone numbers.
- 6.5 The Principal shall keep a written record including the identity of the investigators and their reasons for being at the school. The record shall be kept in a secure place other than the student's file until such time as it is deemed appropriate to destroy the information.
- 6.6 Investigators may wish to interview school personnel having regular contact with the student or having other specific information pertinent to the investigation. The Principal shall assist by identifying and facilitating these contacts.
- 6.7 Since the individuals identified in 6.6 above may be required to give evidence under oath in any court proceedings which may eventually occur, it is recommended they summarize, in writing, the information provided to the investigators and retain it for future reference.
- 6.8 In the interests of the student and in recognition of the family's right to privacy, staff members shall maintain confidentiality in matters involving investigations into alleged child abuse or neglect.

7. Student Searches

7.1 Lockers

- 7.1.1 School lockers will be rented or available on the condition that the Principal or designate reserves the right to search and repossess the locker at any time without notice.
- 7.1.2 The locker rules will be published in the student handbook and include the provision that lockers are subject to searches without notice under the direction of the Principal.
- 7.1.3 Plans to implement school-wide locker searches, including the use of dogs, will be clearly stated in the rules.
- 7.1.4 The locker rules will make clear that the student only acquires is the right to use the locker and the lock, both of which remain the property of the Division, subject to the procedures above.
- 7.1.5 It is desirable that students and an adult be present in the event that their lockers are searched.

- 7.2 In certain circumstances, a student may be directed to empty pockets, knapsack, purse, etc.; however, physical searches of students are not to be undertaken by school personnel. If, in the opinion of the Principal, a physical search is required, a law enforcement officer shall be contacted.

Reference: Section 11, 52, 53, 197, 222 Education Act
Child, Youth and Family Enhancement Act
Controlled Drugs and Substances Act
Youth Criminal Justice Act
Criminal Code (Canada)