

#109815

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## **Interviews, Searches and Arrests of Students**

[The Public Schools Act of Manitoba](#) prescribes as one of the duties of a School Board the requirement to “...ensure that each pupil enrolled in a school within the jurisdiction of the school board is provided with a safe and caring school environment that fosters and maintains respectful and responsible behaviours.”

To support this expectation these procedural guidelines apply to the interviews, searches and arrests of students while on school premises or while participating in school-related activities off Division property.

When cooperating with a police officer, a school administrator or designate is encouraged to express verbally any concerns or disapproval; however, any overt interference with a police officer in the legal execution of his/her duties may constitute a criminal offence. A police officer is responsible to justify any actions taken.

### **1. Interviews of Students**

Although these guidelines have been developed for situations where police officers are involved in investigating students on school premises, there will be situations where the investigation of a school matter by the School Administrator or designate may overlap with some alleged criminal activity. In these situations, it is recommended that the School Administrator or designate follow these same guidelines to ensure that any statement received from the student would be admissible evidence at any proceeding against the student. On matters not relating to school activities, only the legal guardian of the student or a law enforcement officer shall be permitted to interview a student on school premises, and then only when absolutely necessary.

Under some circumstances, as dealt with in *The Child and Family Services Act*, Child and Family Service authorities may have the right to interview students in the school.

### **Police Investigations at Schools**

Police shall not conduct investigations in the schools except when it is absolutely necessary for them to do so in the proper discharge of their duties. Police may secure addresses of students, in order to carry on investigations outside the school.

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Police officers shall make every effort to notify a school administrator or designate prior to:

- interviewing a student on school property,
- searching a student or any place on school property, or
- arresting a student on school property.

When students under the age of majority have to be interviewed by the police at the school, and the parent/guardian is unable to be present, the School Administrator or designate or an adult chosen by the student shall attend the interview as an observer.

**Procedure for Police Interrogation of Students 12 years of Age and Older:**

Any person(s) claiming to be a police officer(s) must satisfy the School Administrator or designate as to his/her identity.

- Division staff shall cooperate with police.
- The police officer shall report to the School Administrator or designate and make known the purpose of the visit.
- A police officer shall be allowed to interview a student in school or on school premises with the permission of the parent/guardian and the School Administrator or designate. In the event that the parent/guardian cannot be contacted, it is left to the discretion of the School Administrator or designate to have a student be interviewed and/or removed from the school.
- The School Administrator or designate shall encourage the police to conduct the interview away from the school. In the event this is not possible or practical, the School Administrator or designate will provide a private location for the interview, and in the absence of a parent/guardian, if the student is less than eighteen (18) years of age, will attend the interview, or ensure that another adult chosen by the student is present.
- The police officer is responsible to inform the student in a language appropriate to the student's age and understanding:
  - The reason for any detention or arrest.
  - The student is under no obligation to give a statement or say anything.

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- Anything the student says or any statement given by him/her may be used as evidence in proceedings against him/her.
- He/she has a reasonable opportunity to consult with:
  - a. Counsel free of charge and a parent/guardian or adult relative in private (except for students under the age of 12 who do not have a right to consult with counsel except with parental approval), and that while trying to contact counsel the police cannot take a statement from him/her or have the student participate in a process that might provide evidence. An example would be a test of bodily substances;
  - or,
  - b. In the absence of a parent/guardian or adult relative, any other appropriate adult 'over 18' of the student's choice, as long as that person is not under investigation in respect to the same offence.
- Any statement made by him/her must be made in the presence of the person consulted.
- Any waiver of these rights must be recorded on video or audiotape or be in writing and contain a statement that the student has been informed of the right being waived.
- If the student requests the School Administrator or designate, another staff member or other adult to be an observer during the interview, it is desirable that the individual comply with the student's request. However, the staff member is not obligated, and if the request is refused, the student must select some other adult to be present, or the interview be delayed until a parent/guardian can be contacted to give permission for the interview to proceed. (A student of eighteen years or older may waive this requirement.)
- The School Administrator or designate does not have the automatic right to be present at the interviews involving students 12 years of age and over. The School Administrator or designate cannot state or assume the position of the student's representative/advocate in the interview; selection of person/counsel is the student's right.
- When a student selects a person other than the School Administrator or designate, the School Administrator or designate can request to be a silent observer of the interview. The police officer would then be

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responsible to inform the student of the request. If the student does not consent, the school administrator or designate may then determine:

- to let the interview proceed without the school administrator or designate in attendance,  
or
  - to request that the interview be removed from the school premises.
- In the event that apprehension of a student is necessary the matter shall be handled with discretion. Before the removal of a student from the school, the School Administrator or designate shall contact the parent/guardian and request the police officer to advise the parent/guardian of the action being taken.
  - The Superintendent/CEO's Department shall be advised by telephone as soon as possible if a student is removed from the school by the police or there is a breach of these guidelines. A written report to the Superintendent/CEO shall follow within twenty-four (24) hours.

### **Procedure for Police Interrogation of Students under 12 years of Age**

- Students under 12 years of age are not subject to charges under the Youth Criminal Justice Act.
- Where the student is under 12 years of age, in the absence of the parent/guardian or some other adult chosen by the student, the School Administrator or designate must be present during an interview on school premises.
- If a student has not been able to contact a parent/guardian and the School Administrator or designate is required to be present during the interview by police of a student under the age of 12, it is recommended that the student be given the same fundamental rights as those given to students 12 years of age and older.

## **2. Searches and Seizures**

Searches and seizures shall be conducted in accordance with Policy JIHA and JIHA-R.

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