

INTERROGATION AND SEARCHES OF STUDENTS

Background

It is recognized that 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 need to occur. It is also recognized that members of outside agencies, such as police officers, social workers and child welfare 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.

Guidelines

1. There is no general right to search the person or private property of a student. However, the Supreme Court of Canada has stated that students in the school environment must operate under a “diminished expectation of privacy”. Within that framework school officials shall make reasonable attempts to protect the privacy of students and refrain from searches unless they have a reasonable and informed basis for doing so.
2. Parents and students shall be made aware of the provision for locker searches in all reasonable manners of communication. This could include, but is not limited to the following: locker agreements, school /student handbooks, newsletters, and first assemblies of the school year or school council meetings.

Procedures

1. The Principal is responsible for protecting the individual rights of the student which includes informing the student of the right to have parents 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 must be immediately reported to the Superintendent.
5. Definitions

- 5.1 *Interview*: informal conversation with a student where the possibility of school sanctions or legal ramifications do not exist for that 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.
- 5.2 *Investigation*: formal interrogation of a student where the possibility of school sanctions or legal ramifications exist for this student as a result of this conversation.
- 5.3 *Arrest*: act of taking the suspect into custody.

6. Law Enforcement/Police Investigations

- 6.1 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.
- 6.2 After the law enforcement officer has made known the purpose of the visit, the Principal shall contact the parents to advise them of the presence of the officer, and the request of the officer to investigate the student. The Principal will then tell the officer whether the parent and the Principal will permit the investigation with the child.
- 6.3 For students under twelve years of age, once parental 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, if the parent chooses to attend.
- 6.4 For students twelve to seventeen years of age:
 - 6.4.1 Once parental consent has been obtained, the Principal shall bring the student to the office. The investigation shall take place in the presence of the parent, or if the parent chooses not to attend, an adult as selected by the student (see 6.5.3 below). The Principal will not automatically have the right to be present.
 - 6.4.2 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.
 - 6.4.3 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
 - i. Let the investigation go ahead; and/or
 - ii. Request that the investigation be moved from the school premises.
 - 6.4.4 Before removing a student from the school, the law enforcement officer should communicate by telephone with the parents and inform them of the course of action taken.
- 6.5 The law enforcement officer is responsible to state that:
 - 6.5.1 The student is under no obligation to give a statement.
 - 6.5.2 Any statement given by a student may be used as evidence in proceedings against the student (if the student is twelve years of age or older).

- 6.5.3 The student has the right to consult with counsel or a parent; or in the absence of a parent, an adult relative; or in the absence of a parent and adult relative, another appropriate adult of the student's choice.
- 6.5.4 Any statement made by the student must be made in the presence of the person identified in 6.5.3 above.
- 6.6 In the event that an immediate arrest of a student on school property is necessary, the law enforcement officer should proceed as per The Criminal Code and advise the Principal and parents of the arrest as soon as possible.

7. Child Welfare Investigations

- 7.1 When child welfare workers or law enforcement officers wish to visit a 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.
- 7.2 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 should be present during the investigation.
- 7.3 The Principal shall not notify the parents about an investigation. The responsibility for notifying parents about an investigation is that of the investigators. While it is important for parents 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 notification by the investigators normally follows an initial contact with the student.
- 7.4 The Principal shall clarify with the investigators when contact with the parents 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 parents and the parents call the Principal indicating that the student has not yet returned home, the Principal shall provide the investigators' names and telephone numbers.
- 7.5 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.
- 7.6 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.
- 7.7 Since the individuals identified in 7.6 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.

- 7.8 In the interests of the student and in recognition of the family's right to privacy, schools shall maintain confidentiality in matters involving investigations into alleged child abuse or neglect.

8. Searches of Property

- 8.1 School lockers will be rented or available on the condition that the school reserves the right to search and repossess the locker at any time without notice. The school shall publish its locker policy in its student handbook, including the provision that lockers are subject to searches without notice under the direction of the Principal. If the school plans to implement school-wide locker searches, including the use of dogs, this shall also be clearly stated in school policy. It must be clarified within the policy that all the student acquires is the right to use the locker and the lock, both of which remain the property of the District, subject to the guidelines above. It is desirable that students and an adult be present in the event that their lockers are searched.

9. Physical Searches

- 9.1 If suspected of wrongdoing, a student may be directed to empty pockets, knapsack, purse, etc.; however, physical searches of students are not to be undertaken by school personnel.
- 9.2 A physical search may be warranted where school personnel believe that the safety and security of students and/or staff may be compromised if an immediate search is not conducted. In such cases, a law enforcement officer shall be contacted to conduct the search.
- 9.3 Whenever a physical search is conducted:
- 9.3.1 The parents/guardians of the student shall be informed of the search and the reasons for it prior to it being undertaken.
 - 9.3.2 A third party must be present.
 - 9.3.3 Full details of the search shall be recorded in writing and signed by the searcher and witness.