

Berkeley USD
Board Policy

Student Interviews by District Counsel

BP XXXX

No student shall be questioned for any purpose by the District’s legal counsel without the site administrator first making multiple reasonable attempts to notify the student’s parent/guardian, informing the parent/guardian regarding the general subject matter of the proposed questioning, and offering the parent/guardian the opportunity to be present during questioning.

The questioning shall not take place until multiple reasonable means to reach the parent/guardian have been attempted and documented. If a time period that is reasonable under the circumstances has passed and documented efforts to reach the parent/guardian are unsuccessful, the questioning may proceed. In that instance, efforts to reach the parent/guardian shall resume immediately following the questioning in order to notify the parent/guardian that the questioning has taken place.

If the parent/guardian requests to be present, the questioning shall not take place until the parent/guardian is able to be present.

If the parent/guardian does not wish to be present, the questioning may proceed without the parent/guardian present. However, in that case, the site administrator or designee shall be present during the questioning unless his or her presence creates a conflict of interest, in which case another administrator shall be present.

Notwithstanding the above provisions, if the Superintendent believes that notification to a student’s parent/guardian would irreparably impede or damage an ongoing investigation of critical importance or endanger student, the Superintendent may request written permission from the Board President for authorization for District counsel to interview the student prior to parental notification. In that case, the parent/guardian shall be notified of the interview as soon as practicable following the interview, if appropriate under the circumstances and the law.

“District legal counsel” includes only those individuals retained as counsel for the District.

Policy BERKELEY UNIFIED SCHOOL DISTRICT
adopted: xxx Berkeley, California

Ty Alper 7/11/17 8:41 PM

Comment [1]:

We had a Board discussion of this policy on June 28 and the Board had some questions the Board was going to discuss again at the Board level. It is on our agenda now in case we can spend a little time proposing possible language for Board to consider:

Some of the questions:

Should we say student can have any adult of their choice present? (Maybe just for secondary level? Or “where feasible”?)

Should we say the superintendent will set parameters for questioning and that counsel needs to check with superintendent or designee before interviewing student?

Should we require whole Board to weigh in where Superintendent believes interview w/o notification is necessary? Or should we say VP can decide if President is not available?

Suggestion of adding training for administrators about questioning by lawyers or should we pass as is and see how it gets implemented and find out if we need to allocate resources for specific training.

Report back to Board annually each of these interactions with any suggestions for revisions of the policy?