

## BP 5145.11 **Questioning And Apprehension By Law Enforcement**

The Board of Trustees believes that the safety of district students and staff is essential to achieving the goal of student learning. **The Board is committed to reducing student contact with law enforcement and the juvenile justice system, reducing the rate of school-based arrests and citations while maintaining a safe school climate, protecting students from discrimination or implicit bias, and implementing alternative approaches to understanding and resolving conflicts.** ~~In accordance with standards specified in law, law enforcement officers may interview and question students on school premises and may remove them when appropriate.~~ **It is the position of the Board of Trustees that, unless there is an imminent threat of serious harm that cannot be addressed through other alternatives, no student shall be ticketed, arrested, or referred to law enforcement while on school grounds, in a school vehicle, or at a school activity or sanctioned event.**

(cf. 0450 - Comprehensive Safety Plan)

(cf. 1400 - Relations Between Other Governmental Agencies and the Schools)

(cf. 3515.3 - District Police/Security Department)

(cf. 4158/4258/4358 - Employee Security)

(cf. 5141.4 - Child Abuse Prevention and Reporting)

(cf. 5145.12 - Search and Seizure)

The Superintendent or designee shall collaborate with local law enforcement agencies to establish procedures which **help to minimize the likelihood of student citation and arrest, while still enabling** ~~enable~~ law enforcement officers to **respond effectively to any imminent threat of serious harm.** ~~carry out their duties on school campus, including, when necessary, the questioning and/or apprehension of students.~~

When any law enforcement officer requests an interview with a student, the principal or designee shall request the officer's identity, his/her official capacity, and the legal authority under which the interview is to be conducted.

**Absent an imminent threat of serious physical harm that cannot be solved through other means, prior to any student being questioned, arrested, booked, restrained, or secluded by a law enforcement officer on campus, a school site representative must call the student's parent/guardian or adult serving as a surrogate parent/caregiver and give the parent/guardian or adult serving as a surrogate parent/caregiver a reasonable opportunity to be present prior to the questioning, arrest, booking, restraint, or seclusion, unless the student is a suspected victim of child abuse in the home. The school principal or designee must inform the minor student that they have the right to have their parent/guardian present for any law enforcement questioning. The district shall provide school administrators and staff with procedural guidance.**

~~At the law enforcement officer's discretion and w~~With the student's approval, the principal or designee **other trusted adult of the student's choosing** may be present during the interview.

**Furthermore, pursuant to California Welfare & Institutions Code Section 625.6, prior to a custodial interrogation (when a young person is detained in any way), and before the waiver of any Miranda rights, a youth 17 years of age or younger shall consult with legal counsel in person, by telephone, or by video conference. The consultation may not be waived. (Cal. Welf. & Inst. Code § 625.6.)**

The principal or designee shall ~~accommodate the interview in a way that~~ **ensure that any police business conducted on campus** causes the least possible disruption for the student and school and provides the student appropriate privacy.

~~Except in cases of child abuse or neglect, the principal or designee shall attempt to notify the student's parent/guardian as soon as practicable after the law enforcement officer has interviewed the student on school premises.~~

If a minor student is removed from school into the custody of law enforcement, the principal or designee shall immediately notify the parent/guardian or responsible relative regarding the student's release and the place to which he/she is reportedly being taken, except when the minor has been taken into custody as a victim of suspected child abuse. (Education Code 48906)

**In the event that law enforcement officers request an interview with a student for whom English is not their first language, the principal or designee will make sure that interpretation services are provided before any interview takes place. The principal or designee will also ensure that the student understands their right to remain silent and to have a parent/guardian present during the interview.**

The principal or designee shall maintain a record of all documentation relative to law enforcement interviews of students.

#### Subpoenas

Although subpoenas may legally be served at school on students age 12 or older, the Board believes that serving officials should be strongly urged to serve subpoenas at the home of the student whenever possible. When served at school, the principal or designee shall take reasonable steps to protect the student's privacy rights and to minimize loss of class time for the student.

#### Responding to On-Campus Immigration Enforcement

**The Superintendent or designee shall make school personnel aware that, pursuant to U.S. Immigration and Customs Enforcement (ICE) policy, schools are considered sensitive locations, which restricts ICE from conducting interviews, making arrests, or operating surveillance for immigration enforcement. Unless there are exigent circumstances, other law enforcement actions have led officers to a sensitive location, or prior approval has been made from an appropriate supervisory official, no ICE agent or officer may conduct restricted activities on school grounds.**

**(ICE Policy Number: I 0029.2 FEA Number: 306-112-002b)**

**District staff shall not solicit or collect information or documents regarding the citizenship or immigration status of students or their family members or provide assistance to immigration enforcement requesting access to such documents. This does not prevent SMFCSD staff from conducting newcomer intake meetings to provide appropriate support.**

**All requests from immigration enforcement entities shall be immediately directed to the Superintendent or designee, who will prioritize preserving students' and families' access to educational services while adhering to state and federal law. (Education Code 234.7)**

~~As early as possible, district personnel shall notify the Superintendent or designee of any request by an immigration enforcement officer for school or student access, or any requests for review of school documents (including for the services of lawful subpoenas, petitions, complaints, warrants, etc.):~~

~~In addition to notifying the Superintendent or designee, district personnel shall take the following action steps in response to an officer present on the school campus specifically for immigration enforcement purposes:~~

- ~~1. Advise the officer that before proceeding with his or her request, and absent exigent circumstances, school personnel must first receive notification and direction from the Superintendent or designee.~~
- ~~2. Ask to see, and make a copy of or note, the officer's credentials (name and badge number). Also ask for and copy or note the phone number of the officer's supervisor.~~
- ~~3. Ask the officer for his/her reason for being on school grounds and document it.~~
- ~~4. Ask the officer to produce any documentation that authorizes school access.~~
- ~~5. Make a copy of all documents provided by the officer. Retain one copy of the documents for school records.~~
- ~~6. If the officer declares that exigent circumstances exist and demands immediate access to the campus, district personnel should comply with the officer's orders and immediately contact the Superintendent or designee.~~
- ~~7. If the officer does not declare that exigent circumstances exist, respond according to the requirements of the officer's documentation. If the immigration enforcement officer has:
  - ~~a. an ICE (Immigrations and Customs Enforcement) administrative warrant, district personnel shall inform the agent that he or she cannot consent to any request without first consulting with the district's counsel or other designated agency official.~~
  - ~~b. a federal judicial warrant (search and seizure warrant or arrest warrant), prompt compliance with such a warrant is usually legally required. If feasible, consult with the district's legal counsel or designated administrator before providing the agent access to the person or materials specified in the warrant.~~~~

~~e. a subpoena for production of documents or other evidence, immediate compliance is not required. Therefore, district personnel shall inform the district's legal counsel or other designated official of the subpoena, and await further instructions on how to proceed.~~

~~8. While district personnel should not consent to access by an immigration enforcement officer, except as described above, he/she should not attempt to physically impede the officer, even if the officer appears to be exceeding the authorization given under a warrant or other document. If an officer enters the premises without consent, district personnel shall document his or her actions while on campus.~~

~~9. After the encounter with the officer, district personnel shall promptly take written notes of all interactions with the officer. The notes shall include the following items:~~

~~a. List or copy of the officer's credentials and contact information;~~

~~b. Identity of all school personnel who communicated with the officer;~~

~~c. Details of the officer's request;~~

~~d. Whether the officer presented a warrant or subpoena to accompany his/her request, what was requested in the warrant/subpoena, and whether the warrant/subpoena was signed by a judge;~~

~~e. District personnel's response to the officer's request;~~

~~f. Any further action taken by the agent; and~~

~~g. Photo or copy of any documents presented by the agent.~~

~~10. District personnel shall provide a copy of those notes, and associated documents collected from the officer, to the [local educational agency's legal counsel or other designated agency official].~~

~~11. In turn, the district's legal counsel or other designated official shall submit a timely report to the district's governing board regarding the officer's requests and actions and the district's response(s).~~

~~12. E-mail the Bureau of Children's Justice in the California Department of Justice, at [BCJ@doj.ca.gov](mailto:BCJ@doj.ca.gov), regarding any attempt by a law enforcement officer to access a school site or a student for immigration enforcement purposes.~~

#### ~~Parental Notification of Immigration Enforcement Actions~~

~~District personnel must receive consent from the student's parent or guardian before a student can be interviewed or searched by any officer seeking to enforce the civil immigration laws at the school, unless the officer presents a valid, effective warrant signed by a judge, or presents a valid, effective court order.~~

~~District personnel shall immediately notify the student's parents or guardians if a law enforcement officer requests or gains access to a student for immigration enforcement purposes, unless such access was in compliance with a judicial warrant or subpoena that restricts the disclosure of the information to the parent or guardian.~~

Legal Reference:

EDUCATION CODE

44807 Duty concerning conduct of pupils

48264 Arrest of truants

48265 Delivery of truant

48902 Notice to law enforcement authorities

48906 Release of minor pupil to peace officers; notice to parent, guardian

48909 Narcotics and other hallucinogenic drugs (re arrest)

CODE OF CIVIL PROCEDURE

416.60 Service of summons or complaint to a minor

PENAL CODE

830-832.17 Peace officers

1328 Service of subpoena

WELFARE AND INSTITUTIONS CODE

627 Custody of minor

CODE OF REGULATIONS, TITLE 5

303 Duty to remain at school

COURT DECISIONS

Camreta v. Greene, (2011) 131 S.Ct. 2020

People v. Lessie, (2010) 47 Cal. 4th 1152

In re William V., (2003) 111 Cal.App.4th 1464

ATTORNEY GENERAL OPINIONS

54 Ops.Cal.Atty.Gen. 96 (1971)

34 Ops.Cal.Atty.Gen. 93 (1959)

Management Resources:

WEB SITES

California Department of Justice, Office of the Attorney General: <http://oag.ca.gov>

Policy SAN MATEO-FOSTER CITY SCHOOL DISTRICT

adopted: December 19, 2019 Foster City, California