

QUESTIONING AND APPREHENSION BY LAW ENFORCEMENT

1. Removal of a student from school.
 - a. Generally, a student may not be removed from school, other than by a law enforcement officer or social worker, without the written request and/or approval of his/her parent or legal guardian. A parent/guardian not having custody may not remove a child from school, nor may he/she authorize removal. In the case of divided families, the parent having legal and physical custody shall be the only person who may remove, or authorize removal, of a student from school. In cases where it is not clear who has legal and physical custody, Legal Services should be consulted. Representatives of the agencies below are authorized to remove a student from school:
 - (1) School Police Services
 - (2) San Diego City Police Department
 - (3) San Diego Fire Department
 - (4) Sheriff's Office
 - (5) Child Protective Services
 - (6) Probation Department
 - (7) Department of Public Welfare
 - (8) District Attorney's Office
 - (9) California Youth Authority
 - (10) Federal enforcement agencies
 - b. If a parent/guardian not having legal custody, or any person not having legal authority, attempts to forcibly remove a student from school, School Police Services must be immediately notified.
 - c. If a law enforcement officer or social worker calls at the school, he/she shall present identification to the site principal/administrator or designee that describes the authority under which he/she acts and the reason for such action, prior to removing a student from school. If questions or concerns arise, School Police Services should be contacted.

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- d. Site principal/administrator or designee:
 - (1) Immediately upon removal of a student from school, must attempt to notify the parent/guardian or other person designated by the parent/guardian except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Penal Code §11165, or pursuant to Welfare and Institutions Code §305. In those cases, the site principal/administrator shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent/guardian or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by disclosure of the place where the minor is to be held, or that disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing. (Education Code 48906)
 - (2) If the parent/guardian cannot be reached, immediately notifies the Placement and Appeal Office.
 - e. Placement and Appeal notifies the parent or guardian by letter and maintains an official record of such notification.
2. Interviewing students at school.
- a. Authorized law enforcement officers may request a private interview with a student at school. If a private interview is not requested, the site principal/administrator or designee should be present at all interviews between students and outside agency personnel.
 - b. If a law enforcement officer or social worker calls at a school, he/she shall present identification to the site principal/administrator, and request an interview with the student.
 - c. Site principal/administrator or designee:
 - (1) If in doubt regarding procedure, calls Placement and Appeal Office

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- (2) After examining the officer's identification, requests the student to come to the school office.
 - (3) If a private interview has not been requested, sits in on interview between the officer and student.
 - (4) Makes every effort to notify the parent/guardian of the incident; the parent/guardian must be notified if a student is being accused.
3. Interviewing at school a suspected victim of child abuse or neglect. A representative of a child protective services agency of the State Department of Social Services may deem it necessary to interview a suspected victim of child abuse or neglect during school hours, and on school premises, concerning a report of suspected child abuse or neglect that occurred within the child's home or out-of-home care facility or anywhere child abuse or neglect is observed.
 - a. To gain access to a student for interview during school hours and on school premises, the child protective agency worker must present to the site principal/administrator or designee one or more of the following:
 - (1) A warrant or affidavit, signed by a judge of the superior court, expressly stating that the individual has authority to speak with a specified student;
 - (2) A court order expressly stating that the individual has authority to speak with a specified student, such as an order placing a juvenile on probation where a condition of the probation is submitting to searches and seizures (interviews) without a warrant (may appear on an order as a waiver of Fourth Amendment rights);
 - (3) Parent or guardian consent, from an individual with legal custody of the student, for the government agency worker to speak with the student;
 - (4) Exigent circumstances which require the government agency worker to speak with the student; or
 - (5) That the government agency worker is not acting for law enforcement purposes and is unaware of any ongoing police investigation of the matter.
 - b. After the outside agency representative has presented to the site principal/administrator or designee one or more of the five circumstances described above, the child shall be afforded the option of being interviewed in private or selecting any adult who is a school staff member, including any

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certificated or classified employee or volunteer aide, to be present during the interview. A representative of the child protective agency or the State Department of Social Services shall inform the child of that right prior to the interview. The purpose of the staff person's presence at the interview is to lend support to the child and enable him or her to be as comfortable as possible.

- c. However, the staff member so elected shall not participate in the interview. The staff member shall not discuss the facts or circumstances of the case with the child. The staff member, including, but not limited to, a volunteer aide, is subject to confidentiality requirements, a violation of which is punishable as specified in Penal Code §11167.5. The site principal/administrator or designee shall inform the staff member of the requirements of this section prior to the interview. A staff member may decline the request to be present at the interview. If the staff person selected agrees to be present, the interview shall be held during school hours. Failure to comply with the requirements of this section does not affect the admissibility of evidence in a criminal or civil proceeding. (Penal Code §11174.3[a])
- d. Whenever a representative of a child protective agency, the State Department of Social Services, or a law enforcement agency presents identification to school personnel, photocopies shall not be made. This will prevent any possible reproduction of an official identification card.
- e. For confidentiality considerations, district staff shall not require or accept documentation from outside agency representatives regarding the circumstances necessitating an on-campus student interview.
- f. Whenever a law enforcement agency (other than School Police Services) is on a school campus and asks to interview a student, the law enforcement agency representative must present to the site principal/administrator or designee one or more of the following:
 - (1) A warrant or affidavit, signed by a judge of the superior court, expressly stating that the individual has authority to speak with a specified student;
 - (2) A court order expressly stating that the individual has authority to speak with a specified student, such as an order placing a juvenile on probation where a condition of the probation is submitting to searches or seizures (interviews) without a warrant (may appear on an order as a waiver of Fourth Amendment rights);

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- (3) Parent or guardian consent, from an individual with legal custody of the student for the government agency worker to speak with the student; or
 - (4) Exigent circumstances that require the government agency worker to speak with the student.
 - g. Should there be any question in identifying the investigating agency, school personnel should contact School Police Services for assistance.
 - h. Persons other than law enforcement officers or those with custody do not have a legal right to interview students at school, nor to serve legal papers on students.
- 4. Juveniles involved in arson on school property.
 - a. Arson arrests may be made by police; however, the Metro Arson Strike Team conducts any follow-up investigation or referral to probation. Arrest should be considered mandatory when structural damage or personal injury is caused or seriously threatened.
 - b. In serious cases not justifying arrest, but involving incendiary fire or use of pyrotechnic devices and considerable danger to persons or property, school authorities may suspend a student and refer him/her for counseling and guidance. The student must be accompanied by a parent or guardian.
 - c. Site principal/administrator or designee:
 - (1) If immediate arrest is made, or if investigation results in arrest, takes action to suspend the student.
 - (2) In serious cases not involving arrest but considered a disciplinary matter, may suspend the student and refer him/her to counseling and guidance.
 - (3) In less serious cases, may suspend the student in accordance with district suspension procedures.
- 5. Temporary custody of minors.
 - a. Any social worker in a county welfare department, while acting within the scope of his/her regular duties under the direction of the juvenile court and pursuant to Welfare and Institutions Code §272(b) may:

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- (1) Receive and maintain, pending investigation, temporary custody of a minor described in Welfare and Institutions Code §300, and who has been delivered by a peace officer.
 - (2) Take into and maintain temporary custody of, without a warrant, a minor declared a dependent child of the juvenile court under Welfare and Institutions Code §300 or who the social worker has reasonable cause to believe is a person described in Code subdivision (b) or (g), and the social worker has reasonable cause to believe the minor has an immediate need for medical care or is in immediate danger of physical or sexual abuse or the physical environment poses an immediate threat to the child's health or safety.
 - (3) If a County social worker presents him/herself at a school site to take custody of a student, the social worker and the school that releases the student must complete the Social Services Custody Verification form. When completed, the form should be placed in the student's folder to record the basis for releasing the child to the social worker. The student's parent/guardian should be notified that the student has been released to the County social worker, and should be advised of the reasons for the release. The parent/guardian should be given a copy of the completed form. Any questions concerning this form should be directed to Legal Services.
- b. A peace officer may, without a warrant, take into temporary custody a minor under the age of 18 when such officer has reasonable cause to believe that the minor:
- (1) Violated any city or county ordinance establishing a curfew based solely on age. (Welfare and Institutions Code §601)
 - (2) Violated any law defining a crime other than ordinance establishing a curfew based solely on age. (Welfare and Institutions Code §602)
 - (3) Violated an order of juvenile court or escaped from any commitment ordered by juvenile court. (Welfare and Institutions Code §625)
 - (4) Was found in any street or public space, suffering from sickness or injury that requires care, medical treatment, hospitalization or other remedial care. (Welfare and Institutions Code §625)
 - (5) In any of the above cases, the minor must be advised of his/her constitutional rights.

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- c. Per Welfare and Institutions Code §626, an officer who takes a minor into temporary custody under the provisions listed above shall thereafter proceed as follows:
- (1) May release the minor; or
 - (2) May prepare a written notice to appear before the probation officer of the county in which the minor was taken into custody, at a time and place specified in the notice. The notice shall also contain a concise statement of reasons the minor was taken into custody. The officer shall deliver one copy of the notice to the minor or to a parent, guardian, or responsible relative of the minor and may require the minor or his/her parent, guardian or relative, or both to sign a written promise that either or both will appear at the time and place designated in the notice. Upon execution of the promise to appear, the officer shall immediately release the minor and shall, as soon as practicable, file one copy of the notice with a probation officer; or
 - (3) May take the minor without unnecessary delay before a probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts took place or the circumstances existed which are alleged and deliver custody of the minor to the probation officer. In no case shall the officer delay delivery of a minor to the probation officer for more than 24 hours if the minor has been taken into custody without a warrant on the belief that he/she has committed a misdemeanor.
 - (4) In determining which disposition of the minor to make, the officer shall select the alternative which least restricts the minor's freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.
- d. Welfare and Institutions Code 631 provides for the release of minors taken into custody:
- (1) Except as noted, whenever a minor is taken into custody by a police officer or probation officer, except when the minor willfully misrepresents him/herself as being 18 or older, the minor shall be released within 48 hours of being taken into custody, excluding nonjudicial days, unless within the 48 hours a petition to declare him/her a ward has been filed pursuant to the provisions of this chapter or a criminal complaint against the minor has been filed in a court of competent jurisdiction.

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- (2) Whenever a minor is taken into custody by a police officer or probation officer without a warrant on the belief that the minor has committed a misdemeanor, except when the minor misrepresents him/herself as being 18 or older, the minor shall be released within 48 hours of being taken into custody or on the next judicial day, whichever is later, unless a petition has been filed to declare the minor to be a ward and the minor has been ordered detained by a judge or referee of the juvenile court pursuant to Welfare and Institutions Code §635.
 - (3) Whenever a minor who has been in custody for more than six hours by a probation officer is subsequently released and no petition is filed, the probation officer shall prepare a written explanation of why the minor was held in custody for more than six hours. Written explanation shall be prepared within 72 hours after a minor is released from custody and shall be filed in the record of the case. A copy of the written explanation shall be sent to the parent/guardian or other person having care or custody of the minor.
 - e. Unless already released, a minor taken into custody under provisions of Welfare and Institutions Code §632 shall be brought before a judge or referee of juvenile court for a hearing to determine whether the minor shall be further detained, as soon as possible but in any event before expiration of the next judicial day after a petition to declare a minor a ward or dependent child has been filed. A minor taken into custody without a warrant on the belief that he/she has committed a misdemeanor not involving violence, a threat of violence, or possession or use of weapons, and not currently on probation or parole, shall be brought before a judge or referee of juvenile court for a hearing to determine whether he/she shall be further detained as soon as possible but no later than 48 hours or before expiration of the next judicial day after a petition to declare the minor a ward has been filed. If a minor is not brought before a judge or referee of juvenile court within the period prescribed by this section, he/she shall be released from custody.
8. Citizen's arrest.
- a. When appropriate, officers may advise citizens of their authority to make a private person's arrest of a minor under Penal Code 837. The person making the arrest should be advised that a juvenile investigator will contact him/her concerning disposition of the case. It is imperative that a phone number where the citizen can be contacted is included in the report.

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- b. When a minor is placed under arrest by a private person, the officer should process the minor in the same manner as in described above. A minor immediately shall be advised of his/her rights under Welfare and Institutions Code §625 and be transported to the police station, released to a parent in the field, or processed in the same manner as described above.
9. Immigration Enforcement on School Grounds.
- a. In alignment with AB 699, schools are “sensitive locations” at which immigration enforcement should not generally occur. In the event that a law enforcement officer requests information or access to a school site or a student for immigration enforcement purposes, School Police Services should be immediately contacted to ensure the student is protected from unreasonable detention, and to ensure there is no disruption to the school or classroom learning.
 - b. Parent/guardian must be notified before a law enforcement officer questions or attempts to remove a student for immigration enforcement purposes, except when under a judicial warrant or court order. Legal Services must be contacted immediately if documents such as ICE Administrative Warrant, Federal Court Warrant, ICE Administrative Subpoena, Federal Judicial Subpoena, Court Order or any other legal document is produced.