

The following policy shall govern school personnel's cooperation with law enforcement and social services agencies in regard to criminal law enforcement and child abuse investigations, and are not in derogation of the customary authority of school administrators to conduct interviews and investigations, or otherwise to take action as part of the enforcement of school discipline and order.

A copy of this policy shall be provided to all licensed school personnel, who shall be responsible for observing it. A copy of this policy also shall be provided to all local law enforcement and social services agencies so that mutual cooperation may be promoted.

A. OFFICIAL CONTACT WITH STUDENTS IN SCHOOLS

A. Administrative Authorization Required

Law enforcement officers, including investigators employed by public agencies authorized to investigate child abuse, may not be permitted contact with any student except by the building principal or his or her designee, or by the superintendent, and pursuant to the procedures and requirements set forth in this policy.

B. Verification, Documentation, and Parental Notification Procedures:

Prior to any student being produced by a school principal for any contact with officers, the principal or his or her designee shall:

1. Write down the name, badge number, and agency of the officer(s), together with the date and time of appearance.
2. If necessary, confirm by telephone with the agency that employs the officer(s) their identity and authorization in seeking contact with the student, and record the name and position of the person confirming such information and the time of such confirmation; and
 - a. in instances in which the officer(s) have appeared at the school to interview or make an arrest of a student for suspected criminal activity, the principal shall also determine and write down the agency's justification for conducting an interview or arrest of a student at school when such criminal activity has not been:
 - (i) committed at the school,
 - (ii) committed during school-sponsored activities,
 - (iii) committed on school grounds, or

- (iv) when such criminal activity involves crimes committed at the school for which assistance has not been requested by the principal; and
 - b. in instances in which the officer(s) is acting pursuant to an arrest warrant, a search warrant, or other court document, the principal shall obtain a copy of such document.
 - 3. Contact the student's parent(s) or guardian, notify them of the contact, and record the time of notification and the name of the person notified;
 - a. If upon the initial request for contact by the officer(s) or agency, the principal is directed by either not to attempt to notify the student's parent(s) or guardian or to obtain the attendance of the student's parent(s) or guardian,
 - (i) that direction should be added to the information recorded by the principal pursuant to this section, and
 - (ii) the officer should be asked to sign the statement; and
 - (iii) if the officer refuses to sign the statement, the principal should note on the statement that the officer refused to sign.

C. Administrative Monitoring of Contact with Students

- 1. After completion of the Verification, Documentation, and Parental Notification Procedures, and upon administrative authorization, as described in this policy, a law enforcement officer may conduct an investigation within the school building and upon school grounds and interview students as possible witnesses in the principal's office or other administrative office.
- 2. The superintendent should consider whether the principal or his or her designee should be present during the interview on the basis of the age and special needs of the child, and in light of the provision of the Children's Code that such interviews shall be conducted "in a manner and place that protects the child . . . from trauma and embarrassment." N.M. Stat. Ann. § 32A-4-5 (D).
- 3. Reasonable attempts shall be made to keep the identity of those interviewed confidential.

4. Neither the principal nor his or her designee shall disclose any written statements made or the content of statements given during the interview, except he or she may disclose statements made or the content of statements given during the interview to
 - a. the student interviewed and to his or her attorney or parents,
 - b. to the district attorney or other law enforcement agencies; and
 - c. if the principal deems it appropriate to legitimate disciplinary goals, to other school officials.
5. If the investigation focuses on a particular student as a suspect of a crime, the school principal and the police officer shall follow the general guidelines set forth in this policy with respect to interrogation, search, and arrest. In addition, the principal shall follow the advice of the rights provisions of Section II.B. below.
6. The school principal shall keep a record of the procedural steps followed by the police in conducting interrogations, and any instance in which the principal acts to preclude or terminate an interrogation.
7. All writings and records created pursuant to these procedures shall be retained as part of the school's records.

II. POLICE CONTACTS

A. Investigation and Assistance

1. **Police Investigations at the Request of School Authorities:** A school principal may exercise his or her discretion in determining whether to request assistance of police in investigating any crime contrary to the laws of the State of New Mexico or of the United States, or any allegations of such crimes, including crimes committed at school or on school grounds during school hours, or during school-sponsored activities.
2. **Police Investigation Without Request of School Authorities:** It should not ordinarily be necessary for police officers to interview students at school during school hours for criminal activity not committed at the school, during school-sponsored activities, or on school grounds, or for crimes committed at the school for which assistance has not been requested by the principal.

- a. If the police have determined that exigent circumstances exist to interview students at school regarding such crimes, the law enforcement agency shall first contact the school principal regarding the planned visit and shall give the principal the reason for conducting the investigation during school hours, school-sponsored activities, or on school property and shall obtain his or her approval;
 - b. The principal shall approve and cooperate with the police during the investigation unless the principal determines that the investigation is being conducted for the purpose of harassment or for reasons not related to a criminal investigation. In the event that the principal declines to approve the interview he/she shall immediately report his/her opposition to the superintendent of schools, who shall notify and discuss the opposition with the appropriate police supervisor. Approval shall not be unreasonably withheld.
 - c. A principal shall not, in any event, prevent the appropriate law enforcement agency from serving or executing court process (i.e. summonses, warrants, subpoenas) or court orders upon school grounds during school time, provided that the procedures set forth in Section I are first observed.
 - d. A principal may also designate a reasonable time and place for law enforcement contact with students, including for service of process upon students under his/her control, in order to ensure that the educational process is not disrupted.
3. Requests for Police Assistance
- a. Building principals are authorized, upon consultation with the superintendent or his or her designee, to summon and seek assistance from law enforcement authorities in any case in which the activities of students or others is creating a threat to the health or safety of students or of others, or is disrupting or threatening to disrupt the educational program, normal operation, or lawful functions of the school.
 - b. Such requests shall be directed to the law enforcement agency (State Police, Sheriff's Department or local police) having jurisdiction over the geographical area in which the school is located.

B. Interrogation of Student Suspects in School

1. **By or for Police:** If law enforcement officers deem it necessary to interrogate student suspects in school hours or school-sponsored activities, and if criminal prosecution is anticipated by the law enforcement officers or the school principal, no interrogation shall commence unless
 - a. A parent or guardian is present to counsel the student; or
 - b. The student suspect has been advised of his/her basic rights and, understanding those rights, has knowingly and voluntarily waived those rights as follows:
 - (i) Before interrogation, the police officer shall
 - advise the student of the nature of the crime for which he or she is a suspect,
 - advise the student that he or she has the right to remain silent, that anything he or she says may be used against him or her in criminal or juvenile court and that he or she has the right to have an attorney present, or a court-appointed attorney if the parents are indigent, and the student or parent may stop the interrogation at any time, in order to obtain an attorney and have him or her present at further interrogations.
 - c. The school principal or designee cannot waive these rights on behalf of the student, nor may he or she compel the student to submit to an interview or interrogation.
 - d. The school principal shall use his or her discretion and his or her knowledge of a student's age and mental or physical condition and shall not permit interrogation in an instance in which a parent is not present and the principal does not believe that the student can knowingly, intelligently, and voluntarily waive his or her rights.
 - e. It is not the responsibility of the school principal to advise the student suspect of his/her basic rights as set forth in the Children's Code, NMSA 1978, §§ 32A-1-16 and 32A-2-14.
 - f. The school principal shall not permit a student suspect age thirteen or under to be photographed or fingerprinted at school unless the law enforcement officer presents a court order authorizing it. See NMSA § 32A-2-14(I).

2. **School Personnel at Request of Police:** If a student is being interviewed by a school administrator at the request or instigation of the police for law enforcement purposes, the interrogation may be conducted only if
 - a. The student is advised of his/her constitutional rights;
 - b. The student knowingly, intelligently, and voluntarily waives his or her constitutional rights; and
 - c. A reasonable attempt to notify his/her parents is made before the interrogation takes place.

C. Arrests of Students in Schools

1. **General Policy:** It should not ordinarily be necessary for police officers to arrest students at school during school hours for criminal activity not committed at the school, during school-sponsored activities, or on school grounds, or for crimes committed at the school for which assistance has not been requested by the principal
2. **Arrests with Advance Notice:** In cases where a law enforcement agency deems it necessary to arrest a student during school hours or activities at school, the agency should notify the principal of the intended arrest prior to dispatching officers to the school, and the principal should request that a non-uniformed officer make the arrest if possible or that the services of school security officers be used if available.
3. **Arrests in Emergency Circumstances:** In emergency situations, where the immediate arrest of a student is deemed necessary by the police, including instances where the commission of a felony or serious breach of the peace has been witnessed by a police officer or if the police officer is in "hot pursuit" of the student for such crime, the police shall be entitled to take action to arrest the student on school property without a warrant.
 - a. In cases in which an arrest of a student has been made in an emergency situation in which the police have taken custody of a student without providing school authorities the opportunity to conduct the verification, documentation, and parental notification procedures outlined in section I.B., school authorities shall make every reasonable effort to have the arresting officer(s) comply with the said procedures before removing the student from school grounds.

- b. If the student has been removed from school grounds by law enforcement officers prior to compliance with the verification, documentation, and parental notification procedures, school authorities shall contact the arresting agency and complete the said procedures as soon as possible after learning of the removal.

D. Search and Seizure by Police

1. On Request of School Authorities

- a. **Emergency Circumstances:** Upon request of a school principal, police officers may make a general search of students' lockers and desks, or students' automobiles on school property, for drugs, weapons, or items of an illegal or prohibited nature if, in the principal's judgment, public health or safety is threatened.
- b. **Non-emergency Circumstances:** If a principal has received reliable information, which he/she believes to be true, that evidence of a non-school-related crime or stolen goods is located in a certain student's locker, desk, or in a student's or a non student's automobile parked on school property, and there is no immediate threat to the health or safety of student or employees, he/she shall request police assistance for a search by the police pursuant to a search warrant.

2. Without Request of School Authorities

- a. Police officers may not search a student's locker, desk, or automobile unless they have a search warrant, or a knowing, intelligent, and voluntary consent is given by the student
- b. A student's person may not be searched in school unless:
 - (i) police have a search warrant, or
 - (ii) the student is under arrest, or
 - (iii) the police are acting upon probable cause to believe that the student is concealing contraband, or
 - (iv) a knowing, intelligent, and voluntary consent is given by the student.

- c. Notwithstanding the foregoing, a search of a student's person, locker, automobile on school grounds, or desk, may be conducted by any police officer on school grounds during school hours if emergency circumstances exist and the police are acting upon probable cause to believe that the health and safety of the student or of others requires a search.
- d. A school official may not consent to a warrantless search of a student's locker, desk, or automobile, by police unless police are acting at the direction and under the supervision of the school administration.
- e. The student, if then available, shall be present during any search of his/her locker, desk, or automobile.
- f. In all searches authorized by this section, the principal or his or her designee shall accompany the officer(s) in conducting such searches.

III. CHILD PROTECTIVE AGENCY CONTACTS

A. Duty to Report Suspected Child Abuse and Neglect

Pursuant to NMSA 1978, § 32A-4-3, it is the duty of any school nurse and school teacher or administrator who knows or suspects that a child is or has been abused or neglected upon penalty of fine to report this information immediately to either (1) a law enforcement agency or, (2) the county office of the Children Youth & Families Department. School employees and officials shall cooperate with investigators of the above-named agencies investigating suspected instances of child abuse and neglect, subject to the safeguards and procedures provided by this policy.

B. Investigations of Child Abuse and Neglect

Verification, Documentation, and Parental Notification Requirements: Investigators employed by public agencies authorized to investigate child abuse, including those seeking to remove students from school for purposes of maintaining protective custody as a part of a child-abuse investigation, are subject to the Verification, Documentation, and Parental Notification Procedures set forth in section I. except:

- 1. In observing the Verification, Documentation, and Parental Notification Procedures, the school principal or designee shall determine from the investigator whether it is appropriate to notify the parent or guardian of the requested interview or the removal of the student from the school;

2. In the event the investigator directs that such notice not be given, as in cases where a parent or close family member is the suspected abuser, the principal shall record such direction as part of the Verification, Documentation, and Parental Notification Procedures.
3. Law enforcement officers or investigators from the Children Youth & Families Department shall have access to any records pertaining to a complaint of child abuse or neglect, in accordance with NMSA 1978, § 32A-4-3F.