

## LAW ENFORCEMENT AND DEPARTMENT OF SOCIAL SERVICES LEARNER INTERVIEW POLICY

When learners are at school or involved in a school activity off school grounds, the school has an obligation to the learners and their parents, and also an obligation to authorities such as law enforcement and the Department of Social Services. This policy balances the rights of learners and parents with the rights and responsibilities of law enforcement and the Department of Social Services as those entities investigate juvenile delinquency/criminal matters and matters related to suspected child abuse and neglect.

For all action permitted by this policy and/or law, it is the responsibility of law enforcement officers to assure compliance with procedural and constitutional safeguards.

For purposes of this policy:

1. "Interview" means a discussion between a law enforcement officer and a learner regarding the learner's or another person's actions, statements, or behavior that threaten or could threaten the life, safety, or well-being of a learner or regarding anyone's possession of illegal or unauthorized material, assuming that the learner is not officially under arrest or in the custody of the law enforcement officer.
2. "Parent/guardian" means the biological or adoptive mother or father, guardian, responsible relative, or any other person who has claimed legal or actual charge or control of the learner pursuant to South Dakota law.
3. "Law Enforcement Officer" means any employee of a law enforcement agency.
4. "School Resource Officer" means a law enforcement officer who is an employee of the police department or sheriff's department but is assigned to the school district to assist in assuring the safety and welfare of the learners.

Requests from law enforcement officers and persons other than parents, school district officials, and personnel to interview learners shall be made through the superintendent or building principal's/assistant principal's office. To minimize disruptions to the school environment and embarrassment to learners involved, all interviews by law enforcement should be held in private unless the urgent nature of the situation prevents compliance with this requirement. The building principal/assistant principal should be present during all interviews when the parent/guardian cannot be present, unless compelling reasons for exclusion are provided by the law enforcement officer.

It is therefore the policy of the District that:

1. **Interview of Alleged Perpetrator-School Related Event:** Law enforcement officers will be allowed to contact and interview learners at school as provided in this section regarding alleged or suspected school related criminal activity or which involves a situation affecting school safety. Should a law enforcement officer wish to interview a learner who is an alleged perpetrator of a crime under the age of 18\* while the learner is at school or at a school activity, the officer will notify the building principal/assistant principal before interviewing the learner. The building principal/assistant principal will notify the learner's parent/guardian to receive permission for the learner to be interviewed by the law enforcement officer and to provide the opportunity for the parent/guardian or other adult of the parent/guardian's choosing to be present during the interview by a law enforcement officer. If the principal/assistant principal has made a reasonable effort to notify the parent/guardian but is unable to contact the parent/guardian, the principal/assistant principal should document that attempts were made to do so and the learner may be interviewed only if the law enforcement officer identifies emergency circumstances requiring immediate questioning or orders/requires the learner to be presented to law

enforcement. The parent/guardian will be notified by the principal/assistant principal as soon as possible after the interview. However, should the law enforcement officer order school personnel to present the learner so that the officer may interview the learner, such as pursuant to a warrant or court order, after documenting the law officer's order to present the learner, the school personnel shall comply with the officer's order and the building principal/assistant principal shall then immediately contact the learner's parent.

It is the responsibility of the law enforcement officer to advise an alleged perpetrator of his or her rights against self-incrimination.

- Learner Victim or Witness:** Should law enforcement desire to interview a learner regarding a school-related event who is a victim of a crime other than suspected child abuse or neglect, or who is a witness of a crime, the building principal/assistant principal should **attempt to** contact the learner's parent/guardian before the discussion **if possible** so that the parent/guardian may be notified of the situation, unless (1) the urgent nature of the situation or other exigent circumstances exist which demand that the interview be conducted immediately or (2) law enforcement believes that interviewing the learner without parental notification may prevent imminent physical harm to that learner or other learners within the immediate school setting. If the parent/guardian is not contacted prior to the interview, school personnel will notify the parent/guardian prior to the end of the school day during which the discussion took place.

If, during the interview, the learner becomes suspected of a crime, the procedures as outlined in Section 1 herein will be followed.

- Event Unrelated to School:** Should the interview pertain to an incident that is not related to school or the abuse or neglect of a child, law enforcement officers should avoid interviewing the learner at school. However, there may be instances when law enforcement may determine such an interview is necessary and the only available option. If so, prior to granting a request, the principal/assistant principal will verify that the law enforcement officer has obtained parental consent or has a warrant or court order.
- School Resource Officer Conversations:** The School Resource Officer ("SRO") shall have ongoing access to learners on an informal basis, and learners may seek out a School Resource Officer, and this policy shall not be construed so as to interfere with this access. These conversations do not constitute interviews for which permission from the school principal/assistant principal or a parent/guardian must be obtained. However, any such conversation which discloses behavior or actions, or potential behavior or potential actions, which are or could be detrimental to learner safety and welfare or with regard to illegal or unauthorized materials present on school district property, will be reported to the principal/assistant principal. If the conversation reveals information of an emergency nature, other law enforcement authorities may be notified by the SRO or building principal/assistant principal. If the School Resource Officer plans to interview an alleged perpetrator, the procedures as outlined in Section 1 herein will be followed.
- Abuse or Neglect:** Should the Department of Social Services (DSS), Division of Child Protection Services (CPS), or a law enforcement officer be investigating suspected child abuse or neglect and wish to talk with a learner under the age of 18\* while the learner is at school, the request to talk with a learner shall be documented by the building principal/assistant principal, including the name of the person making the request, date of request, date of interview, and that the request is made for the reason of investigating suspected child abuse or neglect. The law in South Dakota requires investigation of suspected child abuse to be kept confidential and can be done without notification to parents. Therefore, the school will not notify parents of a request by the Department of Social Services/Division of Child Protection Services or law enforcement to talk with a learner in such instances.

\*Upon the learner reaching the age of 18, the learner is a legal adult and has the authority to make the decision whether or not to talk with the law enforcement officer or DSS/CPS and without parental involvement. However, the learner shall be afforded the opportunity to contact his/her parents for advice before responding to a request by the authorities to be interviewed by law enforcement and/or talk to the Department of Social Services/Division of Child Protection Services. The learner shall also be provided the opportunity to select an adult of their choice to be present during an interview by law enforcement.

**Legal References:**                    [\\*State v. Horse](#) (Interrogation of Minor)

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