

CVUSD

Board Policy

BP 5145.11

Students

Questioning And Apprehension

Note: California Attorney General opinions have long recognized law enforcements' authority to question students (a "seizure") at school without parental consent and required school officials to cooperate with the police in their investigations. However, the 9th Circuit Court of Appeals has held in *Greene v. Camreta* that an interview of a student at school by a social worker and deputy sheriff, regarding allegations of sexual abuse by the student's father, violated her Fourth Amendment right against unreasonable "seizure" (i.e., questioning by law enforcement). According to the court, absent exigent circumstances, the social worker and sheriff could not question the student without obtaining a warrant, court order, or parent/guardian consent. The applicability of this case to questioning of students by law enforcement in school districts regarding issues of child abuse or other matters is unclear and the case law is still developing. It is likely that an appeal will be filed requesting that the U.S. Supreme Court review the decision; in the meantime, in order to protect against liability, districts should proceed cautiously.

Note: The following policy applies only to questioning by law enforcement and does not apply to questioning by school resource officers or district personnel in connection with school discipline issues. In addition, this policy does not apply to the interviewing of suspected child abuse victims by a child protective agency representative not accompanied by law enforcement; see AR 5141.4 - Child Abuse Prevention and Reporting. For searches of students and/or their belongings, see BP/AR 5145.12 - Search and Seizure.

The Governing Board is committed to providing a safe learning environment and cooperating with law enforcement officials and peace officers as necessary to help ensure the safety of students, staff, and the community and in carrying out their official duties.

In accordance with standards specified in law and court decisions, law enforcement officers may interview and question students on school premises. The Superintendent or designee shall collaborate with local law enforcement agencies to develop parameters under which law enforcement officers will interview students at school.

When any law enforcement official requests an interview with a student, the principal or designee shall request that the official provide verification of his/her identity and official capacity and certify the legal authority under which the interview is being conducted. If the officer refuses to provide certification of the legal authority for the interview, the principal or designee shall document such refusal and should consult with district legal counsel, as appropriate, before allowing the interview to proceed. The principal or designee shall maintain a record of all documentation relative to law enforcement

interviews of students.

If the officer needs to interview or question the student immediately, the principal or designee shall accommodate the process in a way that causes the least possible disruption for the student and school, gives the student appropriate privacy, and models exemplary cooperation with law enforcement authorities.

Except in cases of child abuse or neglect, the principal or designee shall notify the student's parent/guardian when a law enforcement officer requests an interview on school premises.

At the law officer's discretion and with the student's approval, the principal or designee may be present during the interview.

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)

Personnel responsible for releasing a student from school custody shall exercise extreme diligence to prevent such release to any unauthorized or unidentified person.

(cf. 5142 - Safety)

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 all reasonable steps to ensure a minimum of embarrassment or loss of class time for the student.

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

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

Greene v. Camreta, (2009, 9th Cir.) 588 F.3d 1011

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://caag.state.ca.us>

CSBA (6/91 10/96) 3/10

CVUSD (4/08) 9/10