**Law Enforcement Contact BP ####**

Why is a Board Policy on Law Enforcement Contact with Students Important?

School districts do not have any authority over police departments that are independent from a school district (for example, a city police department). An independent police department can, however, agree to certain rules and policies in a Memorandum of Understanding (“MOU”) with the school district – and the ACLU has included a “model MOU” in the resources accompanying *The Right To Remain A Student*. This document, on the other hand, is a model school board policy that focuses on the roles and responsibilities of school and district staff when law enforcement officers detain, question, or arrest students on campus. This board policy does not require independent police departments to agree because it governs the actions of school and district staff only. This policy protects students because it clearly states how school and district staff must help and protect students when law enforcement is on campus.

= Required Legal Standard

= Calls for Administrative Regulation or Relies on Different Board Policy

= ACLU Identified as Most Important



| Paragraph Number | Provision | Model Board Policy | Explanation |
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| 1–2 | **Policy’s Purpose** | [District] 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.  [District] is committed to reducing student contact with law enforcement and the juvenile justice system, to reducing the rate of school-based arrests and citations while maintaining a safe school climate, and to protecting students from discrimination or implicit bias.” | In general, board policies should begin with a paragraph that describes the specific policy’s purpose, goals, and overall theme. |
| 3 | **School-Based**  **Discipline** | “[District] administrators have primary responsibility to ensure consistent enforcement of school rules and policies. No law enforcement officer shall act as a school disciplinarian. Disciplining students is the responsibility of [District] staff. [District] staff shall not notify or request the assistance of law enforcement officers to resolve student disciplinary issues.” | The policy should make clear that school officials are responsible for addressing school rule and policy violations. When law enforcement address student disciplinary issues, they often needlessly criminalize youth. |
| 4 | **Conduct not Proper for Law Enforcement Assistance** | “School site administrators and staff shall call for law enforcement assistance only when: (1) there is a real and imminent physical threat to student, staff, or public safety: or (2) as required by law under Section 48902 of the Education Code. [District] or school staff should not request the involvement of a law enforcement officer in a situation that can be safely and appropriately handled by the [District]’s internal student disciplinary procedures.  Issues where it would not be appropriate for district and school staff to request the involvement of a law enforcement officer include, but are not limited to:   1. Loitering; 2. Profanity; 3. Inappropriate public displays of affection; 4. Failure to wear or correctly wear school uniform or follow policies regarding clothing; 5. Failure to follow school rules; 6. Disorderly conduct; 7. Failure to participate in class/unpreparedness for class; 8. Failure to carry hall-pass/appropriate identification; 9. Trespassing; 10. Insubordination/defiance; 11. Verbal altercations, abuse, and/or harassment; 12. Altercations, abuse, and/or harassment over the internet; 13. Vandalism and/or graffiti; 14. Possession of a prohibited item that does not violate the penal code (e.g., cell phones or markers); 15. Inappropriate use of electronic devices; 16. Being late, cutting class, absenteeism, or truancy; 17. Physical altercations that do not involve a weapon; 18. Perceived drunkenness or intoxication; 19. Possession of alcohol; 20. Possession of a tool that could be taken to be, but is not intended as a weapon – such as a nail clipper or file, small pen knife, butter knife, toy gun, pepper spray, etc. – unless that item is being brandished as a weapon; and 21. Alleged or witnessed promoting or claiming to be part of a neighborhood or crew (including verbally, through graffiti, through clothing, or hand signs).” | This section establishes a very clear expectation that school and district staff may not call for law enforcement assistance to resolve low-level, minor offenses. Although it seems like an obvious point that police should not be acting as disciplinarians in school, the ACLU’s study found that only three of the 119 district policies reviewed explicitly stated that police should not be called to handle student violations of school rules.  Although there are advantages and disadvantages to clearly listing the violations where staff are *not* allowed to call police, we believe that on balance, it is better to be extremely clear with school and district staff by giving examples of the kind of student misbehavior this section addresses. However, this is not intended to be a complete or exclusive list of minor student offenses, and you should add offenses that may be missing on this list. |
| 5 | **Procedure for Requesting Law Enforcement Assistance** | “For the commission of these and other violations of school rules, [District] administrators should exhaust all other alternatives before involving law enforcement officers. Alternatives include: issuing a warning, admonishing and counseling, and referring the student for community service, restorative justice, or mediation. [District] administrators shall develop a matrix to track the use of, alternatives to calling law enforcement officers.” | This section is intended to reduce school or district staff’s reliance on exclusionary disciplinary policies such as suspension, expulsion, or referral to law enforcement. Identifying specific discipline alternatives helps school and district staff remember those alternatives when they are in the middle of a discipline incident. |
| 6 | **Prohibition Against Using Law Enforcement As Investigatory Mechanisms** | “School site administrators and staff shall not call law enforcement officers to interview students or collect evidence for [District] disciplinary purposes, including for expulsion matters.” | This section makes very clear that school discipline is not a law enforcement matter. School and district staff cannot use officer interrogation as a method to essentially “scare” students into revealing information about the school rule violation. |
| 7 | **Student Questioning by District Staff—Informal Questioning Requires Reasonable Suspicion** | “[District] staff may informally question students about safety-related concerns if staff has a reasonable suspicion that the student knows information that would help ensure the safety of students or staff. Reasonable suspicion shall be based on specific and objective facts that the questioning will produce evidence related to an alleged violation of law or school rules. Curiosity, rumor, hunch, mere disruptive activity, attempts to shield private possessions from view or invocations of a student’s constitutional rights cannot form the basis for said reasonable suspicion.” | “Reasonable suspicion” is a legal term that relates to students’ constitutional rights. It means that school staff can only search a student when they have a reasonable belief that the student broke the law or school rules. Rumors or hunches are not enough to allow staff to search a student. |
| 8 | **Student Questioning by District Staff—Parental Notification** | “Where the student is a potential defendant for a crime, [District] staff should first notify the student’s parent or guardian before questioning the student about the alleged violation of law or school rules. Efforts to contact parents by the principal or designee must include calling all numbers listed on the student’s emergency card, including work numbers, cell phone numbers, and all numbers supplied by the student. The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian. [District] staff shall further notify the student that anything he/she says may be shared with school officials or police and can be used against him/her in, for example, a criminal case.” | Students may become confused or be intimidated into false confessions if they are questioned by school or district staff about a potential criminal matter without their parent or guardian present. That can have terrible consequences for a student’s future.  It is therefore important that district staff adopt and follow safeguards that protect student’s interests before questioning the student about a potential criminal matter. This policy reflects that kind of protections we expect for children when they are questioned by the police, as well. |
| 9 | **Student Questioning by District Staff—Student’s Right to Have Adult Present** | “Where the questioning involves a potential serious crime and/or the student is concerned about his/her safety in disclosing information, the [District] staff should ask the student if he/she would like his/her parent/guardian to be present or if he/she would like to have another adult present of his/her choosing.” | This section allows the student the option of having another adult present, if the student is concerned that notifying his/her parent/guardian may jeopardize the student’s safety. |
| 10 | **Student Questioning by Law Enforcement—Constitutional Requirements** | “Law enforcement officers may interview and question students on school premises under the limitations described by this section. Law enforcement officers should not interview students at school as a means of circumventing rights afforded to students in accordance to standards in law and court decisions.” | Law enforcement cannot question student on campus to avoid the rights afforded youth outside of the school setting. |
| 11 | **Student Questioning by Law Enforcement—Request Law Enforcement Identification** | “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 and receive approval before allowing the interview to proceed.” | This section ensures that school and district staff are checking to make sure that students’ constitutional rights are better protected when students interact with police in schools. It also protects students and staff from strangers entering campus under unsupported allegations that they are “law enforcement.” |
| 12 | **Student Questioning by Law Enforcement—Without a Warrant** | “Law enforcement officers may not remove students from class for questioning without a court order or arrest warrant permitting questioning unless there is an immediate threat that the student will cause bodily injury. Where there is no court order, arrest warrant, or immediate threat, law enforcement officers should wait until after school or, at a minimum, after class to approach the student.” | Police presence on campus significantly diminishes a positive school climate. When officers remove students from class during learning time, it substantially disrupts the classroom environment while also denying the targeted student his/her right to their education – causing even more negative impacts. This section makes clear that police should only interrupt class time when there is an immediate safety threat. |
| 13 | **Student Questioning by Law Enforcement—Protect Student’s Right to Privacy** | “A private location out of sight and hearing of other students should be arranged to question a student, where practicable, that will help avoid invading the student’s privacy, embarrassing or humiliating the student, jeopardizing the safety and welfare of other students, and further disruption of the school campus.” | This section ensures that student privacy is respected and class time disruption is minimized, which has positive impacts on all students. |
| 14 | **Student Questioning by Law Enforcement—Limit Disruption to School Activities** | “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 the school, gives the student appropriate privacy, and models exemplary cooperation between law enforcement authorities, student, and school personnel.” | Law enforcement questioning on campus can disrupt the school environment and diminish a positive school climate. To eliminate these negative effects, a school official should oversee that questioning is minimally disruptive and does not jeopardize student privacy. |
| 15 | **Student Questioning by Law Enforcement—Parental Notification** | “A school site representative must call the student’s parent/guardian and give the parent/guardian a reasonable opportunity to be present when a student is questioned by a law enforcement officer, prior to the commencement of the questioning, unless the student is a suspected victim of child abuse. If the parent/guardian requests that the student not be questioned until the parent/guardian can be present, the law enforcement officer may not question the student until the parent/guardian is present. Efforts to contact the student’s parent/guardian by the principal or designee must include calling all numbers listed on the student’s emergency card, including work numbers, cell phone numbers, and all numbers supplied by the student. The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian. If the principal or designee cannot reach the parent, he/she should leave messages where applicable and follow up with written documentation.” | Police questioning is intimidating to nearly everyone. The intimidation is even more pronounced for youth, especially when they are questioned without a parent or guardian present. Students may become confused or be intimidated into false confessions if they are questioned by police about a criminal matter without their parent or guardian present. That can have terrible consequences for a student’s future.  Districts should adopt a comprehensive parental notification procedure that identifies and requires school or district staff to take certain specific steps to ensure that the student’s parent or guardian receives notification when their child is questioned by the police. |
| 16 | **Student Questioning by Law Enforcement—Students Right to Have Adult Present** | “If a parent/guardian cannot be found, the school site should offer the student the option of having an adult of his or her choice from the school available during the interrogation.” | This section allows the student the option of having another adult present during police questioning, if his/her parent/guardian is unavailable. This better protects students from the power imbalance between students and police. |
| 17 | **Student Arrest** | “Law enforcement officers may not make a lawful arrest of a student unless the officer displays either an authorization order signed by a judge of the juvenile court or a warrant for the student’s arrest. The only exception to this requirement is if there is a real and immediate physical threat to student, staff or public safety. The [District] expects that law enforcement officers shall consult with the school principal or principal’s designee before arresting a student, unless there is a real and immediate physical threat to student, staff or public safety that makes such consultation impracticable. In that case, the officer shall notify the principal immediately following the arrest and whenever safety permits before removing the student from the school site.” | Students should only be arrested in school in the rarest of circumstances, and when there is a real and immediate physical threat to student, staff, or public safety. School and district staff must be extremely careful to ensure that the arrest is both lawful and necessary.  This section adopts constitutional standards that operate outside of schools: that police must have a warrant to arrest a person, with very limited exceptions (here, where there is a real and immediate physical threat to safety). |
| 18 | **School Official’s Duty to Collect Information from Officers About the Arrest** | “The principal or designee shall request that the officer provide verification of his/her identity and official capacity and certify the legal authority under which the arrest is being conducted. If the arrest is not made pursuant to an authorization order or warrant, the school principal or designee shall inquire as to the reason for the arrest by the officer prior to releasing the student into the officer’s custody. If the officer refuses to provide certification of the legal authority for the arrest, the principal or designee shall document such refusal and should consult with [District] legal counsel and receive approval before allowing the officer access to the campus.” | This section also designates a specific person responsible for performing the “gate keeper” function on campus to make sure that law enforcement officers on campus follow basic procedures to demonstrate the legality of the arrest. |
| 19–20 | **Student Arrest** | “In an effort to minimize disruption to the learning environment, [District] administrators should coordinate with law enforcement officers to consider the reasonableness of making an arrest on campus or summoning a student from a classroom. When considering whether it is reasonable to arrest or summon a student on campus, [District] administrators and law enforcement officers should consider the following:   * Whether the arrest or summoning is in response to the commission of a school-related offense; * The seriousness of the offense; * Whether there is an imminent threat to public safety; * Federal or state requirements; and * Whether the officer is able to accomplish the arrest by other means.   A private location out of sight and hearing of other students should be arranged for the arrest of a student, where practicable, that will help avoid invading the student’s privacy, jeopardizing the safety and welfare of other students, and creating further disruption on the school campus. The principal or designee shall discourage law enforcement officers from arresting or escorting students through school hallways in view of students. The [District] expects that law enforcement officers will provide the principal or designee the opportunity to be present during any arrest of a student.” | This section identifies the factors that district administrators must consider when determining whether to allow police on campus to arrest a student. Requiring school and district staff to consider these factors helps to ensure that students are only arrested in the very rare circumstances when public safety compels it. |
| 21 | **Special Considerations for Students Who are Also Parents** | “Students who are also parents or guardians must have an immediate opportunity to ensure that their children are in the custody of a trusted caregiver and have the opportunity to arrange for their child’s/children’s care for the duration of their time in custody.” | This section protects students who are also parents. |
| 22 | **Notify Parents of Student Removal from Campus** | “If a student is removed from school into the custody of law enforcement, the principal or designee shall immediately notify the parent/guardian 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. (Educ. Code § 48906). The principal or designee shall attempt to contact the student’s parent/guardian by calling all numbers listed on the student’s emergency card, including work numbers, cell phone numbers, and all numbers supplied by the student. The principal or designee shall record the time(s) of contact or attempted contact with the parent/guardian and the [District] shall maintain the records for at least three years in a centralized location. If the principal or designee cannot reach the parent, he/she should leave messages where applicable and follow up with written documentation.” | The law requires district staff to notify a student’s parent/guardian when the student is removed from campus, unless the student is taken into custody as a victim of suspected child abuse.  This policy lays out the required steps in more detail, to ensure that district staff make meaningful efforts to notify the student’s parent/guardian. |
| 23 | **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 minimum embarrassment and loss of class time for the student.” | This section ensures that student privacy is respected and disruption to class time is minimized, which has positive impacts on all students. |
| 24 | **Record Keeping** | “The school principal or designee shall document each instance when district or school staff call a law enforcement officer(s) on campus; each instance when a law enforcement officer interviews a student on school grounds; and each instance when a law enforcement officer arrests a student on school grounds. Such records shall include the date and time, name and identifying number of the officer, the agency employing the officer and his/her official capacity, the time when he/she arrived and left, whether the principal or designee was or was not present during the interview, the reason the student was questioned and/or released, and any other pertinent information.” | Data collection helps districts and community stakeholders hold school and district staff accountable to following the district policy. Separating the data by where the violation occurred and where the citation was issued demonstrates whether local law enforcement is improperly using their school-based assignment as a means to improperly achieve non-campus related law enforcement objectives. |
| 25 | **Immediately Report Incident to Superintendent** | “The school principal or designee shall also notify the Superintendent of the [District] and enter a written Incident Report the same day to detail the police response to any incident involving a student. All Incident Reports shall be logged into the [District] centralized database system. All Incident Reports, and the centralized database system, must record the school site, nature of the incident or offense, race, ethnicity, gender, disability, if applicable, and age of the student or students involved in the incident. The database system shall be structured in a way that will protect the individual student’s identity if records from the system are released to the public.” | Immediately reporting the incident improves the report’s accuracy and integrity. That the school principal must submit the report to the district Superintendent also keeps the responsibility for oversight of these incidents with the Superintendent. |
| 26 | **Policy Training and Distribution** | “Within three months of this policy’s adoption, the [District] shall ensure that it is distributed to all current and new school staff and that training is provided at least once per year.” | This section designates a specific entity or person who is responsible for distributing the policy. This reduces potential confusion between the district, local school sites, and police departments about who must maintain and distribute the information. |