

Section 10-18.2. Public Safety and Parent and Student Rights; Interviews by School Resource Officers; Interviews of Students by Law Enforcement Authorities at School About School Related Incidents; Law Enforcement Interviews about Non-School Related Matters Conducted Away From School; Service of Process at School; Development of Programs; Report to Law Enforcement Officials; Memorandum of Understanding. — A. The School Board recognizes the need to balance public safety and parent and student rights when it comes to law enforcement officers interviewing students on school property during the school day. With this in mind, the School Board adopts the following policy.

B. When acting on their own initiative and authority to further a proper educational environment at the school or at the request of school personnel (as opposed to acting upon the request of outside law enforcement authorities), school resource officers (SROs) who are investigating a school related incident or any incident which may have potential consequences for the safety of the students or employees at the school may interview students without obtaining permission from parents. Examples of incidents which may have potential consequences for the safety of students or employees at the school include the following:

- (i) Fights between students that may result in retaliation at school;
- (ii) Threats made by a student against another student or employee at the school;
- (iii) Gang related offenses such as assault, battery, and intimidation; and
- (iv) Possessing drugs or weapons while on school property.

C. When a law enforcement authority seeks to interview a student at school about a school-related incident for law enforcement purposes, the following procedures shall apply:

- (1) The law enforcement agent shall upon arrival at the school contact the building principal or other designated school official, identify or confirm the student sought to be interviewed, and identify or confirm the reason(s) for the interview.
- (2) Unless the school has initiated the request for the interview, the school official should request to see subpoenas, warrants, or court orders, if any, that would support the student interview at school.
- (3) The school official shall verify the identity of the law enforcement agent, if not known by the school official, by checking and photocopying the agent's picture identification card.
- (4) The school official shall, before allowing the law enforcement agent to interview the student, if the student is a suspect or the subject of a criminal investigation, obtain the parent or guardian's consent

unless extenuating circumstances dictate that this not be done. Extenuating circumstances exist when, for example:

- (i) There is a risk that delay in proceeding with the interview may pose imminent danger to the health or safety of students, school employees, or other persons in the community.
 - (ii) The student's parent or parents/guardians are suspected of serious criminal activity or of co-involvement with the student in criminal activity.
 - (iii) Law enforcement authorities need to act promptly to prevent destruction of evidence of a serious crime, or flight from the jurisdiction by a person suspected of serious criminal activity.
- (5) All attempts to contact a student's parents/guardians should be documented.
 - (6) If the student refuses to speak to law enforcement authorities, the interview may not proceed on school grounds.
 - (7) If the parent/guardian conditions consent on being present, then absent exigent circumstances as set forth in (4)(i) thru (iii), the interview should be delayed until the parent/guardian arrives.
 - (8) Absent an emergency or circumstances justifying other action, all interviews of students should be conducted in private to avoid disrupting school, protect the student's privacy, and preserve the integrity of the investigation.
 - (9) If the school official determines it is appropriate for law enforcement authorities to interview the student at school without the presence or permission of a parent or guardian, as provided in subpart 4 above, the school official standing in *loco parentis* is to remain in the room with the law enforcement agent and the student during the interview.
 - (10) If a law enforcement agent requests to interview a student as a non-suspect witness to an incident that occurred on or off school property, the school official may, but is not required to, permit such an interview without prior notification or consent of the student's parent/guardian. Such an interview shall be conditioned upon the law enforcement agent agreeing to notify the school official if the student becomes a suspect during the interview. Upon such notification, the school official should require that the interview cease and be conducted at the police department, or that it cease until notification and consent of a parent or guardian, unless extenuating circumstances exist.

(11) In the event of a custodial interrogation, if the student is the subject of a criminal investigation, or if the interview changes into one where the student becomes a suspect or the subject of a criminal investigation, even when there is a subpoena, warrant or court order, a student is protected by the Fifth Amendment right against self-incrimination and may have a right to an attorney.

D. Absent extenuating circumstances (e.g., preventing destruction of evidence of a serious crime or preventing flight from the jurisdiction by a student suspected of serious criminal activity), interviews of students by law enforcement authorities about matters unrelated to school should generally be conducted away from school after school hours. If a law enforcement agent wants to interview a student at school about a non-school related matter, the procedures outlined in Subsection C above shall apply.

E. Should there be a need to serve a student or school employee with any "legal process", the School Board encourages the process server to make all reasonable attempts to serve such documents off school premises; however, if the documents must be served on school premises, they should be served at the principal's office of the school at which the student attends or the main office of the facility at which the employee is assigned.

In any case in which custody or visitation of a minor child is at issue and a summons is issued for the attendance and testimony of a teacher or other school employee who is not a party to the proceeding, if such summons is served on school property, it may be served only by a sheriff or his deputy.

F. The superintendent seeks to develop, in cooperation with the local law-enforcement agencies, juvenile and domestic relations court judges and personnel, parents, and the community at large, programs and procedures to prevent violence and crime on school property and at school-sponsored events. The superintendent obtains and uses Sex Offender Registry information in accordance with School Board Policy 10-19.4 and Crimes Against Minors Registry Information.

G. Except as may otherwise be required by federal law, regulation, or jurisprudence, the principal immediately reports to local law-enforcement officials all incidents ~~listed below~~ involving alcohol, marijuana, a controlled substance, an imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft or attempted theft of student prescription medications that may constitute a felony offense.

Except as may otherwise be required by federal law, regulation or jurisprudence, the principal immediately reports to the local law-enforcement agency all incidents involving

1. ~~assault and battery which results in bodily injury,~~ the sexual assault, death, shooting, stabbing, cutting, wounding of any person, abduction of any person as described in Va. Code §§ 18.2-47 or

18.2-48, or stalking of any person as described in Va. Code § 18.2-60.3, on a school bus, on school property or at a school-sponsored activity; or

2. ~~any conduct involving alcohol, marijuana, a controlled substance, imitation controlled substance, or an anabolic steroid on a school bus, on school property, or at a school-sponsored activity, including the theft of or attempted theft of student prescription medications; or~~
2. any written threats against school personnel while on a school bus, on school property, or at school-sponsored activity;
3. the illegal carrying of a firearm, as defined by Va. Code § 22.1-277.07, onto school property;
4. any illegal conduct involving firebombs, explosive materials or devices, or hoax explosive devices, as defined in Va. Code § 18.2-85, or explosive or incendiary devices, as defined in Va. Code § 18.2-433.1, or chemical bombs, as described in Va. Code § 18.2-87.1, on a school bus, on school property, or at a school-sponsored activity; or
5. any threats or false threats to bomb, as described in Va. Code § 18.2-83, made against school personnel or involving school property or school buses.

Except that a principal is not required to but may report to the local law-enforcement agency any incident involving any written threats against school personnel while on a school bus, on school property, or at a school-sponsored activity committed by a student who has a disability.

Except as may otherwise be required by federal law, regulation or jurisprudence, the principal may report to the local law-enforcement agency any incident described in Va. Code § 22.1-279.3:1.A that is not required to be reported pursuant to the two previous paragraphs.

~~The principal may also report to local law enforcement officials, at his/her discretion, any incident involving the assault or assault and battery, without bodily injury, of any person on a school bus, on school property, or at a school-sponsored activity.~~

H. The School Board has a memorandum of understanding that sets forth the powers and duties of the school resource officers. The memorandum of understanding addresses the use of seclusion and restraint by law enforcement personnel in school settings. The School Board and the law-enforcement agency review and amend or affirm the memorandum of understanding at least once every two years or at any time upon the request of either party. The School Board provides notice and an opportunity for public input during each review period for the memorandum of understanding. The current

memorandum of understanding is conspicuously published on the division website. (Adopted January 12, 1995; Revised November 16, 1995; Revised June 13, 2013; Ordinance Number 12/13-141; Effective Date: July 1, 2013; Revised June 9, 2016; Ordinance Number 15/16-118; Effective Date: July 1, 2016; Revised April 11, 2019, Ordinance 18/19-58; Effective Date: April 11, 2019; Ordinance 19/20-59; Revised/Effective Date: January 9, 2020; Ordinance 21/22-36; Revised/Effective Date: November 4, 2021; Ordinance 22/23-16, Revised/Effective: November 10, 2022)

Legal Authority - Virginia Code §§ ~~22.1-78, 22.1-253.13:7,~~ and 8.01-47, 8.01-293, 9.1-101, 16.1-264, 22.1-279.3:1, 22.1-279.9, 22.1-280.2:1, 22.1-280.2:3, and 22.1-293 (1950), as amended.