



## 2000 - Operations

### 31 - Access to Students by Law Enforcement and DCFS Policy

#### 1. Purpose

- 1.1. This policy outlines the recognition of authority and procedures by Providence Hall Providence School (PHCS) for Law Enforcement and the Utah Department of Division of Child and Family Services (DCFS) personnel wishing to have access to Students when at school.

#### 2. Definitions

- 2.1. **Students** - Children who are considered students of record at PHCS by being enrolled at PHCS through the proper registration process and who have an active entry record, with no active withdrawal record, in the PHCS student information system.
- 2.2. **Parent/Guardian** - A natural or adoptive parent or court appointed legal guardian of a student who is currently enrolled and attending classes at PHCS.
- 2.3. **School Personnel** - Individuals who are assigned to provide education and educational-related services to Students at PHCS, to include, but not limited to administrators, teachers, counselors, social workers, therapists, teacher assistants, paraeducators, and student resource officers (SROs).
- 2.4. **Local Education Agency (LEA) Personnel** - Individuals who are assigned by PHCS to provide LEA level support to schools.
- 2.5. **School/LEA Administrator** - Principal or his/her designee or Executive Director or his/her designee
- 2.6. **Law Enforcement Interview** - An interview conducted by any Law Enforcement officer or state agency employee investigating alleged criminal behavior. This includes interviews by SROs only when the purpose of the interview is criminal investigation and prosecution. It does not include interviews by SROs for school discipline purposes, acting to maintain school safety, or interactions for training, counseling, performing outreach, assisting with or teaching crime prevention programs, and acting as a positive role model.

#### 3. General Rules

- 3.1. Schools are places where Students are provided education and education-related services. School Personnel providing these services have access to Students at school as needed to perform their various functions and may meet with Students to discuss their conduct or behavior and/or the conduct or behavior of others. School Personnel and/or LEA Personnel will contact a Parent/Guardian after communicating with a Student when the Student is receiving formal discipline, such as a suspension, or in a case where a Student's health or safety may be at risk.
- 3.2. In circumstances where School Personnel and/or LEA Personnel reasonably suspect that unlawful activity or abuse or neglect has occurred involving a Student, Law Enforcement and/or DCFS will be called to investigate the matter.
  - 3.2.1. Law Enforcement/DCFS personnel follow agency protocols for notifying Parents/Guardians to inform them of an investigation.
  - 3.2.2. It is not the responsibility of PHCS to notify Parents/Guardians of such investigations.
- 3.3. Outside of the educational program, schools are not places to be used by governmental or private entities to locate or otherwise access Students for the sake of convenience. Arresting, detaining, or questioning Students for non-school-related



issues may be allowed in the circumstances set forth in this policy, in circumstances involving health or safety risks or if a Student causes actual or potential disruption or danger to him/herself, other Students, or the school. However, schools are generally not a forum for interviews of Students or investigations for non-school-related issues.

#### **4. Cooperation with Law Enforcement and DCFS Personnel**

PHCS recognizes that cooperation with Law Enforcement/DCFS personnel is essential in matters affecting the health, welfare, and safety of Students and the community. Nothing in this policy is intended to obstruct the ability of Law Enforcement/DCFS personnel to discharge their duties.

#### **5. Law Enforcement Access to Students**

- 5.1. When Law Enforcement seeks or has requested a School/LEA Administrator to interview a Student at school for Law Enforcement purposes:
  - 5.1.1. The School/LEA Administrator and Law Enforcement officer shall meet to identify or confirm the Student sought to be interviewed, and identify or confirm the reason(s) for the interview;
  - 5.1.2. The School/LEA Administrator shall make a written record of the Law Enforcement officer's request, including presentation of any legal process such as subpoenas or warrants, unless the school had initiated the request for the interview (*Notification of Interview Form*);
  - 5.1.3. The School/LEA Administrator shall verify the identity of the Law Enforcement officer, if not known by the School/LEA Administrator, by checking and photocopying the officer's picture identification card, unless the Law Enforcement officer is in uniform (*Notification of Interview Form*).
- 5.2. The School/LEA Administrator should provide Law Enforcement personnel with immediate access to Students for Law Enforcement interviews under the following conditions:
  - 5.2.1. The Law Enforcement officer presents a warrant, subpoena, or legal order that cannot be effectively executed outside of school hours;
  - 5.2.2. Exigent circumstances exist. Examples of exigent circumstances include, but are not limited to:
    - 5.2.2.1. Law Enforcement personnel are in pursuit of a suspect on school property;
    - 5.2.2.2. Any person is in serious imminent danger;
    - 5.2.2.3. Law Enforcement personnel have a reasonable belief that evidence is about to be destroyed; and/or
    - 5.2.2.4. Law Enforcement personnel need to act promptly to prevent flight from the jurisdiction by a person suspected of serious criminal activity.
  - 5.2.3. The Law Enforcement officer is investigating allegations of child abuse or child neglect (see section 7.0.).
- 5.3. If Law Enforcement interviews a Student under any of the above conditions, then Law Enforcement has the responsibility of notifying the Student's Parent/Guardian to its own policies and procedures.
- 5.4. In the absence of any of the circumstances listed above section 5.2.:
  - 5.4.1. The School/LEA Administrator may use his/her discretion to decide if the interview should proceed. In determining whether to allow an interview, the School/LEA Administrator should consider relevant factors, including, but not limited to the following:
    - 5.4.1.1. Whether the Law Enforcement officer could return later;



- 5.4.1.2. The age and maturity of the student. Absent compelling circumstances and circumstances where law and this policy dictate otherwise, PHCS presumes that Students under the age of fourteen (14) should not be interviewed without the consent of a Parent/Guardian;
- 5.4.1.3. The extent of interruption to the Student's school day;
- 5.4.1.4. The nature of the proposed interview, i.e. whether the Student is a non-suspect witness or a suspect; and
- 5.4.1.5. Any potential negative effects on the school community caused by allowing the interview.
- 5.4.2. Interviews of Students by Law Enforcement personnel about matters unrelated to school should generally be conducted away from school after school hours.
- 5.4.3. If the School/LEA Administrator determines an interview for matters unrelated to circumstances listed in section 5.2. should go forward at that time, the School/LEA Administrator should attempt to notify a Parent/Guardian of the request for an interview, and document, in writing that attempt (*Notification of Interview Form*).
- 5.4.4. If a Parent/Guardian is contacted, and the Parent/Guardian conditions consent on being present, then absent exigent circumstances, the interview should be delayed until the Parent/Guardian arrives.
- 5.4.5. If a Parent/Guardian cannot be contacted, the School/LEA Administrator must decide whether to allow the interview to proceed without Parent/Guardian notification. Typically, without Parent/Guardian notification or consent, interviews should only go forward when the Student is a non-suspect witness to a school related incident that occurred on or off school property.
- 5.4.6. If the School/LEA Administrator is unable to contact a Parent/Guardian pre-interview and the interview goes forward, the School/LEA Administrator shall inform a Parent/Guardian, in the most direct manner possible, following the interview of the name of the officer conducting the interview and the time, date, and duration of the interview (*Notification of Interview Form*).
- 5.4.7. If the Student refuses to speak to Law Enforcement, the interview may not proceed on school grounds.
- 5.4.8. If the interview is conducted, the School/LEA Administrator should be present during the entire interview, unless the Student requests otherwise.
- 5.4.9. 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.

## **6. School/LEA Administrator Involvement in Law Enforcement Interviews**

- 6.1. The School/LEA Administrator should document all interviews of Students by a Law Enforcement officer held in their presence using the *Notice of Investigation Form*. The form shall not be included in the Student's cumulative file.
- 6.2. The School/LEA Administrator should request the Law Enforcement officer inform the Student if the Student is a suspect in a crime, or if the Student becomes a suspect in a crime during the course of the interview.
  - 6.2.1. Upon notification that the Student has become a suspect, if the Student's Parent/Guardian have not been notified and Parent/Guardian consent had not been obtained, the School/LEA Administrator should require that the interview cease and be conducted at the Law Enforcement agency's location, or that the



interview cease until notification and consent of a Parent/Guardian can be obtained by the Law Enforcement agency, unless exigent circumstances exist.

- 6.3. It is not the responsibility of the School/LEA Administrator to advise the Student of his/her legal rights.
- 6.4. The School/LEA Administrator should not participate in the interview on behalf of the Law Enforcement officer.
- 6.5. If the Student requests that the interview be terminated, the School/LEA Administrator should require that the interview be terminated.

## **7. Abuse and Neglect Investigations**

### **7.1. DCFS and Law Enforcement Access to Students**

- 7.1.1. State law authorizes Law Enforcement/DCFS personnel to meet with Students at school to investigate allegations of child abuse and neglect.
- 7.1.2. The School/LEA Administrator shall require positive identification from Law Enforcement/DCFS personnel and keep a log of requests through completion of the *Notice of Investigation Form*. The form shall not be included in the Student's cumulative file.
- 7.1.3. Notice to Parents/Guardians of investigations are the responsibility of Law Enforcement/DCFS personnel. Parent/Guardian inquiries concerning a DCFS investigation should be directed to the investigator.

### **7.2. School Personnel/LEA Personnel Participation in Investigations**

- 7.2.1. School Personnel and/or LEA Personnel should cooperate with reasonable requests from Law Enforcement/DCFS personnel in child abuse or neglect investigations, including requests to be present during interviews with Students. Students may also request the presence of School Personnel and/or LEA Personnel or some other support person during interviews. However, School Personnel and/or LEA Personnel have no statutory duty or right to be present during the interviews.
- 7.2.2. School Personnel/LEA Personnel who agree to be present in an interview should be careful to clarify with the investigator and Student that their role is to provide comfort and to observe not to "protect the Student's rights." The role of "protecting the Student's rights" assumes an additional duty for which School Personnel and/or LEA Personnel do not have statutory authority and may not be prepared to perform.
- 7.2.3. When turning a Student over to Law Enforcement/DCFS personnel, an administrator should announce in the presence of the investigator and the Student something similar to the following: "I am turning this Student over to you in accordance with your request. You are responsible for taking any steps necessary to protect the rights of this Student, the Parents/Guardians, and any other persons involved."