



## POLICE INTERVIEWS WITH STUDENTS

Responsibility:	<i>Superintendent, Student Achievement &amp; Well-Being</i>
Legal References:	<i>Youth Criminal Justice Act; Criminal Code of Canada</i>
Related References:	<i>Police School Board Protocol; Protocol and Guideline for Procedures for Joint Responsibilities When Working with Children and Youth In Care Ministry of Education and Training Violent Incident Form; IS-01-S-4 Incident Report Form (Information Gathering); Municipal Freedom of Information and the Protection of Privacy Act, S. 32(g)</i>
Effective Date:	
Revisions:	<i>March 2016</i>
Revised:	<i>March 2016</i>

### 1. Preamble

The procedures that follow provide guidelines and expectations for Police Interviews taking place on school premises. These procedures supplement important information found in the Police School Board Protocol.

### 2. General

Please note that it is the preference of the Board that police interviews with students regarding offenses unrelated to the school not be conducted on school premises, in view of the stigma and the potential impact on the student. However, school personnel will cooperate fully with the Waterloo Region Police Services in the execution of its work if the officer determines that the interview must take place at school. This consideration also applies to Probation Officers.

The following procedure applies to police interviews with students:

- 2.1 The visitation in the school by the investigating officer shall be arranged with the principal or principal designate. Upon arrival at the school, the police officer is expected to provide proper identification and enter the school with the consent and knowledge of the principal or principal designate.
- 2.2 In order to facilitate a police investigation, the principal shall share with the investigating officer student demographic information (name, address, telephone number, parent/guardian name and contact information) regardless of whether the student is, or is not, present in the school at the time. This sharing of information is permitted under Section 32 (g) of the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56, as amended from time to time. The police can access a student's Ontario Student Record (OSR) by warrant or subpoena, or with the written consent of a parent/guardian/caregiver of the student, if the student is 18 years of age or older. In exigent circumstances, the police can access a student's OSR without a warrant, under section 487.1.1 of the *Criminal Code*.
- 2.3 In exigent or emergency circumstances, police will act without notifying parents/guardians/caregivers, to ensure the safety of the student and others. This could also apply when the parent(s)/guardian(s) are the subject of the investigation, if contacting the parent(s)/guardian(s) could jeopardize the criminal investigation or if contacting them could put

the student at risk of harm from the parent(s)/guardian(s). In such cases, it is the responsibility of the police to apprise the principal (or other appropriate school board official) of the reasons why notification will not occur.

- 2.4 It is the responsibility of the school to communicate to the police if any student has a learning disability or other exceptionality that may impede the student from expressing or understanding written/ oral communication. The police will consider the needs of the student and arrange for professional assistance if required. If, in the judgment of the principal, a student's disability qualifies him/her under the mitigating circumstances regulations, the principal may contact the parents/guardians or substitute decision maker of a student 18 years of age or older without his/her consent if the principal believes that the contacting of the parent will assist the student.
- 2.5 The principal or principal designate shall ask the police officer about the stated purpose of the visit. The principal or principal designate shall ask the police officer if parent/guardian/caregiver consent or a Court order has been obtained to interview the student. If so, the principal or principal designate shall ask for the consent or Court order to be presented. (Consent may also be obtained by telephone.) Police may choose to interview the student without consent or a court order.
- 2.6 If the purpose of the visit is to detain or arrest a pupil, the principal or principal designate cannot prevent this police action. In accordance with Section 26 of the Youth Criminal Justice Act, the police officer will notify the parent/guardian/caregiver of a student who has been charged with, or arrested and detained for a criminal offence. The principal or principal designate will:
  - 2.6.1 Immediately inform the parent or guardian of the date, time and purpose of the visit, and the officer's name;
  - 2.6.2 If the student is a crown ward or ward of Family and Children's Services as represented by the Children's Services Worker (CSW), the legal guardian is considered Family and Children's Services. When a child is in care under a Temporary/Voluntary Care Agreement where the parent(s) remain the legal guardian, the CSW has the full legal responsibility for the child and is the primary contact. In the event that CSW is unavailable, then his/her supervisor is the secondary contact.
  - 2.6.3 If unsuccessful, the principal, or principal designate, should continue to make reasonable efforts to contact the parent/guardian/caregiver.
- 2.7 If the purpose of the visit is to investigate the student, the principal or principal designate will:
  - 2.7.1 Consult with the investigating officer to determine whether the student is a witness, victim, suspect, accused, or under arrest;
  - 2.7.2 Advise all students being questioned by police that their parents/guardians/caregiver will be contacted and informed of the student's involvement in the incidents;
  - 2.7.3 Make efforts to notify the parent/guardian/caregiver prior to any interview by the police. Contacted parents/guardians/caregiver will be notified of their child's/ward's involvement;
  - 2.7.4 Instruct the police officer that the student's parent/guardian/caregiver will be contacted immediately to obtain their consent;
  - 2.7.5 If the police continue to interview the pupil prior to obtaining parental/guardian/caregiver consent, the principal or principal designate shall cooperate with the police officer and make a record that they told the police officer of their intent to contact the student's parent/guardian/caregiver to obtain their consent;
  - 2.7.6 The principal or principal designate shall continue to make reasonable efforts to contact the parent/guardians/caregiver;
  - 2.7.7 If parent contact is made, the parent/guardian/caregiver shall be told of the date, time, purpose of the visit, and of the police officer's name;
  - 2.7.8 If an arrest is made, the pupil will be afforded their rights and may request a person in authority to be present.
- 2.8 The principal or principal designate shall ensure that the questioning of the child is conducted in an appropriate, private location. The police have a responsibility to conduct interviews related to criminal investigations of incidents that involve students as suspects, victims or witnesses in a manner that respects the dignity of the student and minimizes disruption to the school when it is necessary to interview, search or arrest a student at school, during school hours.
- 2.9 If the parents/guardians of a student less than 18 years of age do not wish to attend the school, the principal is unable to contact the parents/guardians within a reasonable amount of time, or

an adult student (18 years or older) or a student aged 16 or 17 years of age who has withdrawn from parental control expresses that they do not want their parents/guardians contacted, the principal or designate shall be present during any interview of the student held at the school, in the capacity of “judicious” parent, provided the student agrees to their attendance.

NOTE: In the role of a judicious parent, the principal's or designate's presence is to ensure the interview is conducted in an appropriate and professional manner and is a witness to the student's behaviour, manner, etc. The judicious parent is not to asked questions, make comments or take notes. If the principal or principal designate attends the meeting, he/she can be subpoenaed as a witness to a Court hearing by either the Crown or student's lawyer.

- 2.10 The Board recognizes that, where a student's parents are not or cannot be present, an officer has the legal right as the person in authority to question the student subject to certain cautions that must be given to the student by the police officer under *The Youth Criminal Justice Act* or *The Criminal Code of Canada*, according to the age of the student.
- 2.11 The principal or principal designate shall record the police officer's name, the student's name, the date of the interview and stated purpose of the interview. This recorded information, shall be treated as private and confidential by the principal or principal designate; however, it may be shared with the Superintendent, Student Achievement & Well-Being, who is responsible for the school, or the parents of a student who is under eighteen years of age. The principal or principal designate needs the consent of the student to disclose these records or their contents to a parent, where the student is eighteen years of age or older. This information shall be maintained by the principal only and shall not be put in official school records.
- 2.12 No principal or principal designate or any Board representative shall stand in the position or role or act as agent to the police (e.g., do not take over police duties such as “reading their rights”). In any investigation, the police and school staff will co-operate and consult with each other. The focus of the school principal and staff will be on the health and safety of all students.
- 2.13 At the conclusion of police/student interviews and of the investigation, if the school is the victim, the police will inform the school principal of the actions to be taken and will co-operate with the principal in his or her investigation and follow-up to the incident. The Police School Board Protocol will dictate the timing of this consultation.