

## STUDENT INTERROGATIONS AND SEARCHES

### Background

HPSD is committed to providing a safe and caring school environment that is conducive to effective learning and to providing for the safety and security of its students while those students are in its care and custody. From time to time, it will be necessary for the principal or a staff member to question a student and conduct a search as a means of ensuring the safety and welfare of all individuals.

Members of outside agencies, such as RCMP and Children's Services, may wish to interview a student at school during the school day. Staff members are expected to cooperate with police or other appropriate civilian authorities in the execution of their duties. They also have a responsibility to students to function *in loco parentis* (in the place of parents) during school hours.

### Procedures

#### 1. General

- 1.1. The principal is responsible for protecting the individual rights of the student which includes informing the student of the right to have parents and/or counsel present during questioning.
- 1.2. Interviews and searches shall be conducted in a manner that ensures that the rights of the student are protected.
- 1.3. Only staff members, the custodial parent or legal guardian of the student, law enforcement officers (local police officers, RCMP, police resource officers), and in some circumstances child welfare authorities may investigate a student on school premises.
- 1.4. Any breach of these procedures must be immediately reported to the superintendent.

#### 2. Interrogations: Law Enforcement Officers

- 2.1. HPSPD strongly encourages investigating officers and officials to conduct their investigation of students away from the school unless they deem such interviews essential to proper investigation.
- 2.2. When authorized persons find it necessary to visit a school to interview a student, they shall report to the principal, provide appropriate identification of themselves and make known the purpose of their visit.
- 2.3. When law enforcement authorities, in the course of their duties, find it necessary to interview a student on the school premises, the following will occur:
  - 2.3.1. Prior to the interview taking place, attempts are to be made to contact the parents/guardians, except in cases where the investigation allegedly has to do with child abuse by the parent(s) or guardian(s). If possible, parents or guardians should be present at the interview.
  - 2.3.2. In the absence of the parent, the principal must sit in on the interview where a child is under twelve years of age.
- 2.4. For students over twelve to seventeen years of age, the principal does not automatically have the right to be present at interviews and cannot assume or state to be the student's advocate in the interview. Students have the right to select their own advocate and may waive the right to have an adult present.
- 2.5. The principal will bring the student to the office where the interview will take place in the presence of an adult, except where the right to have an adult present is waived.
- 2.6. The law enforcement officer is responsible for informing the student (ages 12 to 17) that:
  - 2.6.1. the student is under no obligation to give a statement;
  - 2.6.2. any statement given by the student may be used as evidence in proceedings against the student;
  - 2.6.3. the student has the right to consult with: counsel or a parent/guardian; or, in the absence of a parent or adult relative, any other appropriate adult (over 18) of the student's choice; and
  - 2.6.4. any statement made by the student must be made in the presence of the person consulted unless the student expressly waives that right in writing.

- 2.7. If the student requests the principal or other staff member to be present during the interview, it is desirable that the individual comply in *loco parentis*. However, the staff member is not obliged; therefore, if the request is refused, the student may select some other adult to be present.
- 2.8. The principal can request to “sit in” on the interview as a silent observer. The law enforcement officer would then be responsible to inform the student of the request. If the student does not consent, the principal may then determine:
  - 2.8.1. to let the interview go ahead without the principal in attendance; or
  - 2.8.2. request that the interview be removed from the school premises.
- 2.9. Before removing a student from the school, the police officer is to communicate by phone with the parent/guardian and inform them of the course of action taken.
- 2.10. The principal shall inform the police officer of the division’s position regarding student interrogations, as noted in this administrative procedure.

### **3. Interviews by Children’s Services Workers**

- 3.1. When Children’s Services workers find it necessary to visit a school to interview a student, they shall report to the principal, provide appropriate identification, make known the nature of the investigation and indicate why the interview must be conducted.
- 3.2. If the matter is urgent and there is a need to conduct the interview during school hours, the principal shall facilitate access to the child.
- 3.3. Interviews are to be permitted on school premises in cases of suspected child abuse or neglect when the investigation involves suspected physical/sexual abuse.
- 3.4. The principal, following consultation with the student and the Children’s Services worker will determine whether or not it is in the best interest of the child to have a staff member sit in on the interview.
- 3.5. Children’s Services authorities have the power to apprehend a child where there is sufficient evidence to suggest the child is in need of protection.
- 3.6. Children’s Services are not authorized to take a child from the school unless they have apprehended the child or the child is under wardship.
- 3.7. The responsibility for notifying parents about an investigation rest with the Children’s Services worker. The principal is to seek clarification from the worker that the parents will be informed about the investigation if it involves students under eighteen (18) years of age and when contact with the parents will be made.

### **4. General Searches**

- 4.1. Searches may be conducted if the principal has reasonable information that the locker or student property contains contraband or there are rule violations.
  - 4.1.1. Reasonable grounds for a search means one of the following:
    - 4.1.1.1. Information received from a credible student or person;
    - 4.1.1.2. Information from more than one person;
    - 4.1.1.3. A teacher’s or principal’s own observations; or
    - 4.1.1.4. Any combination of the above information that the principal considers credible.
- 4.2. Students and their parents shall be informed at the beginning of each school year or semester regarding any procedures in effect and that student property is subject to periodic searches of a general administrative nature for contraband and rule violation.
- 4.3. Searches shall be conducted by the principal and one other employee.
  - 4.3.1. For off-site activities, the teacher-in-charge and another employee or volunteer may conduct a search.
- 4.4. All searches must:
  - 4.4.1. be carried out in a reasonable manner;
  - 4.4.2. respect the privacy of the student to the greatest extent possible;
  - 4.4.3. be minimally intrusive, and
  - 4.4.4. be conducted in a sensitive manner and take into consideration the age and gender of the student and their religious practices and all related circumstances.
- 4.5. A student will not be required to submit to an invasive search (pat down) of their person by staff members.

- 4.6. If suspected of wrongdoing, articles and objects owned by the student (e.g., backpacks, purses, tote bags, clothing) may be searched in the following circumstances:
  - 4.6.1. When there are reasonable grounds to believe that there has been a breach of school rules or discipline and that the search will reveal evidence of the violation; or
  - 4.6.2. In an investigation of a violation of school discipline; or
  - 4.6.3. As a matter of school welfare or safety.
- 4.7. A reasonable effort should be made to have the student present during the search, if deemed appropriate by the principal having regard to all circumstances.
- 4.8. The principal shall maintain a written report, using Administrative Form 345B - Student Search Report, listing the reason for conducting a search, all items discovered during the search, and the disposition of those items (e.g., returned to student, destroyed, provided to police).
- 4.9. In the event dangerous, stolen, illegal, or other offensive materials are found during a search, the principal will remove and securely store the materials. The principal shall then determine whether the matter will be handled as an internal disciplinary matter or referred to police. In making such a determination, the principal shall consider whether the materials found are dangerous, stolen, illegal, or otherwise offensive and whether a law enforcement proceeding is likely to result.
- 4.10. If a decision is made to hand the matter over to the police, items removed shall be provided to police.
- 4.11. If a decision is made to deal with the matter as an internal disciplinary matter and the principal has come into possession of an illegal substance, the principal, together with another adult, shall:
  - 4.11.1. record the description of the illegal substance and the circumstances related to its discovery;
  - 4.11.2. photograph and dispose of the substance;
  - 4.11.3. detail the substance, its discovery, and its disposal within Administrative Form 345B - Student Search Report and sign the document.

## **5. Locker/Property Use**

- 5.1. All students will be informed that lockers, desks and any other school furniture or fixtures capable of being used for storage are the property of HPSPD and, as such, are subject to inspection or search by the principal in the presence of another employee.
- 5.2. School lockers will be made available to students on the condition that the school reserves the right to search and repossess the locker at any time, with or without notice.
  - 5.2.1. The school will publish its locker procedures, including the provision that lockers are subject to searches under the direction of the principal.
  - 5.2.2. Schools will issue combination locks to students for use on school lockers. If a student uses a personal lock on a locker, the student must file either the combination or a duplicate key with the office. The principal shall have custody of all combinations and keys to lockers or locks. Any unauthorized lock may be removed without notice and the school shall not be responsible for replacing the lock.
  - 5.2.3. No right or expectation of privacy exists for any student as to the use of any locker assigned to a student by the school, and lockers are subject to search in accordance with this administrative procedure.
  - 5.2.4. HPSPD, as the owner of school lockers for all purposes, reserves the right, at any time, with or without notice, to search or repossess the lockers provided to students. This authority is delegated to the school principal.
  - 5.2.5. Students are responsible for the contents of their lockers.
  - 5.2.6. Principals will establish such rules as are necessary to monitor use of school lockers by students. Such rules will include the requirement that students shall not be permitted to have in their possession any illegal materials, including various forms of illicit drugs, narcotics, intoxicants, weapons, stolen property, and pornographic or any other offensive materials.
  - 5.2.7. Students shall be made aware, both verbally and in written form, of the school rules respecting school lockers at the beginning of each school year or upon registration.

- 5.3. Students will sign Administrative Form 345A - Locker Use Agreement to indicate their agreement and that they have been informed of this Administrative Procedure.

**HPSD Forms**

[Administrative Form 345A - Locker Use Agreement](#)

[Administrative Form 345B - Student Search Report](#)

**References**

*Education Act, Sections 11, 32, 33, 52, 53, 197, 222*

*Child Youth and Family Enhancement Act*

**Cross Reference**

[Administrative Procedure 340 – Student Code of Conduct](#)