

# FORT LA BOSSE SCHOOL DIVISION

TITLE - **INTERROGATION/INTERVIEWS OF STUDENTS\*** POLICY - **JHD-R\***

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Cross Reference -

Resolution # - 51/02

Implementation - 11/02/02

Legal Reference - Young Offenders Act Section 56;  
Child and Family Services Act Regulation 76/2000

Last Reviewed - 25/04/12

## **A. By The RCMP**

### **Interrogation of Students 12 Years of Age and Over**

Police officers, in the course of their duties, may find it necessary to visit a school and interview certain students. In the event that such interviews become necessary, the following procedures are to be followed:

1. When a police officer finds it necessary to interview a student during school hours, the Principal or designate should act:
  - So as to ensure the rights of the pupil they are protecting;
  - Without attempting to provide legal advice; and
  - In compliance with the requests of the law enforcement officer(s).
2. Upon arriving at the school, the police officer should report to the office of the Principal or designate and make known the purpose of the visit.
3. A police officer should be questioned as to the urgency of the matter and advised that if it is not urgent, they should attend at the residence of the student, outside school hours, in order to pursue the investigation. Notwithstanding the above, the Principal must allow the officer to proceed under the following circumstances:
  - If he possesses a warrant (either for arrest or search);
  - If he is “in hot pursuit” after the commission of an offense; or
  - If he possesses specific blanket powers of search and seizure as defined by legislation-i.e. Drug offenses.
4. The Principal, or designate, will bring the student to the office where the interview will take place.
5. When a Police officer seeks to interrogate a student under the age of 18 years during school hours, the Principal will:
  - Attempt to notify the parent(s) or guardian(s) so that they might be present, if they wish;
  - Request that any interview be delayed until such time as the parent or guardian is present;
  - Attempt to safeguard the rights of the student until the parent or guardian arrives by:
    - a) sequestering the student with a staff member in an area apart from that used by the police officer(s); and
    - b) ensuring no interview takes place.
  - Note the date, time, and place of any such request and the outcome of any attempted parental contact; and
  - Include in such notes all relevant data relating to any interrogation to which they may be privy.

6. School personnel should expect the police officer to inform the student that:
  - The student is under no obligation to give a statement;
  - Any statement given by the student may be used as evidence in proceedings against them;
  - He/she has the right to consult with;
    - a) A legal counselor, a parent or an adult relative, or
    - b) In the absence of the above, any other appropriate adult (over 18) of his/her choice; and
  - That any statement made by them must be made in the presence of the person consulted unless the student expressly waives that right in writing.
7. When a police officer is present with legal authority, the Principal or designate will request that parents be called before the student is interviewed by the police officer. However, the Principal or designate will take direction from the police officer with respect to the procedures for police investigations.
8. If the student requests the Principal or other staff member to be his adult representative present during the interview, it is desirable that the individual complies with the student's request. However, the staff member is not obligated to attend. If the request is refused, the student may select some other adult to be present. Any statement made by the student must be made in the presence of the person identified.
9. The Principal or designate does not have the automatic right to be present at an interview involving a student(s) 12 years of age and over. The Principal or designate can not assume or state that he/she is the student's representative/advocate in the interview. The selection of a person or counsel is the student's right.
10. The Principal or designate can request to be a silent observer of the interview. The police officer would then be required to inform the student of the request. If the student does not consent, the Principal or designate may then determine:
  - To let the interview go ahead without the Principal or designate in attendance; or
  - Request that the interview be removed from the school premises.However, if the request to remove the student from the school is denied, the Principal, or designate, will allow the interview to take place without being in attendance.
11. Before removing a student from the school, the police officer should communicate by phone with the parent(s) or guardian(s) and inform them of the course of action being taken and complete form [JJHF-E](#).
12. Police officers should do all in their power to comply with the wishes of the Principal or designate, where such wishes are not inconsistent with this guideline or regulations of the RCMP.
13. Any apparent breach of this guideline must be reported immediately to the Superintendent of Schools.

### **Interrogations of Students Under 12 Years of Age**

Students under 12 years of age are not subject to charges under the Young Offenders' Act.

Preferably after parental consent has been obtained, the Principal will bring the identified student to the office. The interview will take place in the presence of the Principal, and of the parent, if the parent chooses to attend. Students under the age of 12 do not have a right to consult with counsel.

The Principal or designate is required to be present during the interview if a student under the age of 12 has not been able to contact a parent or guardian. It is recommended that a student under the age of 12 be given the same fundamental rights, respect and considerations as those given to students 12 years of age and over.

### **Waiver Pursuant to the Young Offenders' Act**

The waiver form, pursuant to the Young Offenders' Act, is a document generally used by the police department when interviewing young people. In some circumstances, statements taken by school authorities may be held in the same light as statements taken by the police. Therefore, the Principal or designate may wish to use the content of that document, if not the form, when interviewing a student for the purposes of taking a statement pertaining to a criminal or an apparently criminal matter. In these circumstances the form (**JJHD-E**) should be explained to the student by the Principal to ensure that the student has an understanding of the purpose of the interview.

### **Post Interview**

Whether or not the student is released after being interviewed, the Principal, or designate, and the police officer will decide who will phone the parents/guardians to notify them as to what has taken place. The parents/guardians of all students under the age of 18 who are interviewed at school by the police during an investigation must be contacted with the least possible delay. The parents/guardians of a student over 18 may be contacted only if the student has provided a signed consent agreeing to the notification.

If a staff member is to be interviewed as part of a police investigation regarding a student, the Principal/designate will request that the interview be conducted with minimal disruption to the school community. An interview of a staff member should be conducted with respect for the individual's rights and greatest degree of confidentiality.

### **A. By Child and Family Services of Western Manitoba**

Many of the guidelines that govern the questioning of a student by a law enforcement officer also apply to requests for interviews, which may be made by a Child and Family Services (CFS) representative. School personnel are obligated to comply with the request of a Child and Family Services representative under the provisions of The Child and Family Services Act.

**Guidelines for Interviews by Child and Family Services Representatives.**

1. CFS representatives must report to the school administration prior to meeting with any student.
2. If the Principal or designate does not recognize the individual as being a representative of Child and Family Services, identification establishing their status as a bona fide worker with that Branch should be requested.
3. When a CFS worker seeks to interview a student, the responsibility to notify the parent(s)/guardian(s) is that of the worker, not the school. Where appropriate this consent should be obtained prior to meeting with the student.
4. If a CFS representative requests an interview with a student in matters relating to suspected parental child abuse, the request should be made to the Principal. Parental contact will not be required, and the interview may take place without any witnesses being present.
5. Interviews conducted at the school should be held in a private, non-threatening atmosphere and preferably not in an administrative office.
6. Principals shall ensure that there is a written record of the identity of the CFS worker, the date of the interview, the reason for the interview, and the name of the student interviewed. This record should not be kept in the student's file.
7. The removal from class of the student to be interviewed, and the movement to and from the designated interview room, should be conducted as tactfully and unobtrusively as possible.
8. It is not appropriate for the Principal or other person to attend the interview, unless requested by the CFS worker.
9. No student, when not in custody, should be removed from the school for any length of time for any purpose by a CFS worker, unless parental permission (preferably in writing) to do so has been obtained.
10. In all cases of child sexual abuse or physical abuse causing bodily harm, CFS workers are required to notify the police. The RCMP will investigate to determine whether charges should be laid. Joint interviews involving both CFS representatives and police officers may occur during an investigation.
11. Investigators may wish to interview school personnel having regular contact with the student or having other specific information pertinent to the investigation. The Principal will assist by identifying and facilitating these contacts.
12. Since the individuals identified above (in item # 11) may be required to give evidence under oath in court proceedings which may eventually occur, it is recommended they summarize, in writing, the information provided to the investigators and retain it in their own files for future reference.
13. With the exception of the transmittal to authorized persons of information necessary in the conduct of an investigation and treatment, information related to the allegations or suspicions of child abuse is to be held in strict confidence. In particular, any written records, notations or reports are to be considered confidential and are not to be placed in the student's regular or cumulative file or in any other way allowed to become known to persons who have no legitimate need for such information.
14. If there are apparent breaches of the policies set out above the Principal must report these immediately to the Superintendent of Schools.

