

ADMINISTRATIVE PROCEDURE
SAN DIEGO UNIFIED SCHOOL DISTRICT

NO: 5060

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CATEGORY: **Support Services, Discipline**

EFFECTIVE: 7-21-89

SUBJECT: **Juvenile Arrests/Interviews/Removal
From School**

REVISED: 8-17-2001

A. PURPOSE AND SCOPE

1. To outline administrative procedures governing student arrests, interviews, and removal from school.
2. **Related Procedures:**
 - Leaving school grounds, K-6 6155
 - Leaving school grounds, 7-12 6156
 - Legal process, including subpoenas, summonses, and complaints..... 1710
 - Release of student information 6525
 - Searches and seizures by school officials 5065
 - Child abuse or neglect (nonaccidental physical injury)..... 6370

B. LEGAL AND POLICY BASIS

1. **Reference:** Board policy: F-6000, G-1000, G-1001, H-3500, H-6000, I-4400; Education Code Sections 48264, 48265, 48266, 48906, 48913, 49072; Penal Code Sections 837, 11165, 11174.3; Welfare and Institutions Code Sections 305, 306, 601, 602, 625, 626, 631, 632, 635.

C. GENERAL

1. **Originating Office:** Suggestions or questions concerning this procedure should be directed to the School Police Services Department, Office of the Superintendent.
2. **Removal of Students from School**
 - a. **Generally, a student may not be removed from school**, other than by a law enforcement officer or social worker, without the written request and/or approval of his/her parent or legal guardian. A parent not having custody may not remove a child from school, nor may he/she authorize removal. In the case of divided families, the parent having legal and physical custody shall be the *only* one who may remove, or authorize removal, of a student from school. In cases where it is not clear who has legal and physical custody, the Office of General Counsel should be consulted. Representatives of the following agencies may legitimately remove students from school:

School Police Services Department	Probation Department
San Diego City Police Department	Department of Public Welfare
San Diego Fire Department	District Attorney's Office
Sheriff's Office	California Youth Authority
Child Protective Services	Federal enforcement agencies

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- b. **If there is an attempt by a parent *not* having legal custody**, or *any* person not having legal authority, to forcibly remove a student from the school, the School Police Services Department should be notified.
 - c. **If a law enforcement officer or social worker calls at the school office**, he/she shall present identification to the principal and describe the authority under which he/she acts and the reason for such action, *prior* to removing a student from school. If questions or concerns arise, call the School Police Services Department.
 - d. **Principal or designee**
 - (1) Immediately upon removal of a student from school, must attempt to notify the parent, guardian, or other person designated by the parent except when a minor has been taken into custody as a victim of suspected child abuse, as defined in Section 11165 of the Penal Code, or pursuant to Section 305 of the Welfare and Institutions Code. In those cases, the school official shall provide the peace officer with the address and telephone number of the minor's parent or guardian. The peace officer shall take immediate steps to notify the parent, guardian, or responsible relative of the minor that the minor is in custody and the place where he or she is being held. If the officer has a reasonable belief that the minor would be endangered by disclosure of the place where the minor is to be held, or that disclosure would cause the custody of the minor to be disturbed, the officer may refuse to disclose the place where the minor is being held for a period not to exceed 24 hours. The officer shall, however, inform the parent, guardian, or responsible relative whether the child requires and is receiving medical or other treatment. The juvenile court shall review any decision not to disclose the place where the minor is being held at a subsequent detention hearing. (Education Code Section 48906)
 - (2) If the parent cannot be reached, immediately notifies the Placement and Appeal Program Manager, Student Services Division, Office of School Site Support.
 - e. **The Placement and Appeal Program Manager** notifies the parent or guardian by letter and maintains an official record of such notification.
3. **Release of Student From School by Parent.** Procedures to be followed when a parent requests release of a student during the school day are covered in Procedures 6155 (elementary) and 6156 (secondary).

4. **Interviewing Students at School**

- a. **Legitimate law enforcement officers** may request a private interview with a student at school. If a private interview is not requested, the principal or designee should be present at all interviews between students and outside agency personnel.
- b. **If a law enforcement officer or social worker** calls at a school office, he/she shall present identification to the principal, and request an interview with the student.
- c. **Principal or designee**
 - (1) If in doubt regarding procedure, calls the placement, enrollment, and appeal specialist.
 - (2) After examining the officer's identification, directs the secretary to send for the student to be questioned.
 - (3) If a private interview has not been requested, sits in on interview between the officer and student.
 - (4) Makes every effort to notify the parent of the incident; the parent *must* be notified if a student is being accused.
- d. **Persons other than law enforcement officers** or those with custody do not have a legal right to interview students at school, nor to serve legal papers on students (Procedure 1710).

Exception: A representative of a child protective agency may deem it necessary to interview a suspected victim of child abuse, during school hours and on school premises, regarding a report of suspected abuse that occurred within the child's home. The child has the option of being interviewed in private or with any adult staff member—classified, certificated, or volunteer aide—in the room. The child protective representative will inform the school of that right. The staff member:

- (1) Is there to lend support to the child.
- (2) Shall not discuss the facts or circumstances of the case with the child.

(3) Is subject to the confidentiality requirements of the law allowing the staff member to disclose any information he/she acquires only to certain persons or agencies. (Questions on confidentiality may be directed to the Office of General Counsel.)

(4) May decline the request to participate.

5. **Juveniles Involved in Arson on School Property**

- a. **Arson arrests may be made by police**; however, any follow-up investigation or referral to probation is handled by the Metro Arson Strike Team. Arrest should be considered mandatory when structural damage or personal injury is caused or seriously threatened.
- b. **In serious cases not justifying arrest**, but involving an incendiary fire or use of pyrotechnic devices and considerable danger to persons or property, school authorities may suspend a student and refer him/her to the Fire Department for counseling. The student must be accompanied by a parent or guardian. Referrals should be carefully screened to avoid undue counseling loads on the Fire Department.
- c. **The principal or designee**
 - (1) If immediate arrest is made, or if investigation results in arrest, takes action to suspend the student.
 - (2) In serious cases not involving arrest but considered a disciplinary matter, may suspend the student and refer him/her to the Fire Department for counseling.
 - (a) Calls Fire Prevention Community Education (236-7071) to supply the name of the student and details of the incident.
 - (b) Instructs the students and parent to contact Fire Prevention Community Education (236-7071) for a counseling appointment. The student must present a "Proof of Counseling" letter from the Fire Department prior to being readmitted to school.
 - (3) In less serious cases may suspend the student in accordance with Procedure 6290.

6. **Temporary Custody of Minors (Welfare and Institutions Code)**

- a. **Any social worker in a county welfare department**, while acting within the scope of his/her regular duties under the direction of the juvenile court and pursuant to Section 272(b) of the Welfare and Institutions Code may:
- (1) Receive and maintain, pending investigation, temporary custody of a minor described in Section 300 of the Welfare and Institutions Code, and who has been delivered by a peace officer.
 - (2) Take into and maintain temporary custody of, without a warrant, a minor declared a dependent child of the juvenile court under Section 300 or who the social worker has reasonable cause to believe is a person described in subdivision (b) or (g) of Section 300, and the social worker has reasonable cause to believe the minor has an immediate need for medical care or is in immediate danger of physical or sexual abuse or the physical environment poses an immediate threat to the child's health or safety.

If a County social worker presents himself/herself at your school to take custody of a student, the social worker and the school who releases the student must complete the attached "Social Services Custody Verification Form" (E.2.). When completed, the form should be placed in the student's folder to record the basis for releasing the child to the social worker. The student's parents should be notified that the student has been released to the County social worker, and should be advised of the reasons for the release. The parent should be given a copy of the completed form (E.2., Attachment). Any questions concerning this form should be directed to the Office of General Counsel at (619) 725-5630.

- b. **A peace officer may, without a warrant**, take into temporary custody a minor under the age of 18 when such officer has reasonable cause to believe that the minor:
- (1) Violated any ordinance of any city or county of this state establishing a curfew based solely on age (Welfare and Institutions Code Section 601).
 - (2) Violated any law of this state or the United States, or any ordinance of any city or county of this state defining a crime other than an ordinance establishing a curfew based solely on age (Welfare and Institutions Code Section 602).
 - (3) Violated an order of juvenile court or escaped from any commitment ordered by juvenile court (Welfare and Institutions Code Section 625).

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- (4) Found in any street or public place, suffers from sickness or injury which requires care, medical treatment, hospitalization or other remedial care (Welfare and Institutions Code Section 625).

Note: In any of the above cases, the minor must be advised of his/her constitutional rights.

- c. **Welfare and Institutions Code Section 626.** An officer who takes a minor into temporary custody under provisions listed in C.6.a. shall thereafter proceed as follows:

- (1) May release the minor; *or*
- (2) May prepare (in duplicate) a written notice to appear before the probation officer of the county in which the minor was taken into custody, at a time and place specified in the notice. The notice also shall contain a concise statement of reasons the minor was taken into custody. The officer shall deliver one copy of that notice to the minor or to a parent, guardian, or responsible relative of the minor and may require the minor or his/her parent, guardian or relative, or both, to sign a written promise that either or both will appear at the time and place designated in the notice. Upon execution of the promise to appear, the officer shall immediately release the minor and shall, as soon as practicable, file one copy of the notice with a probation officer; *or*
- (3) May take the minor without unnecessary delay before a probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts took place or the circumstances existed which are alleged to bring the minor within provisions of C.6.a.(1) or (2), and deliver custody of the minor to the probation officer. In no case shall the officer delay delivery of a minor to the probation officer for more than 24 hours if the minor has been taken into custody without a warrant on the belief that he/she has committed a misdemeanor.

In determining which disposition of the minor to make, the officer shall prefer the alternative which least restricts the minor's freedom of movement, provided that alternative is compatible with the best interests of the minor and the community.

d. **Welfare and Institutions Code Section 631**

- (1) Except as provided in C.7.b., whenever a minor is taken into custody by a police officer or probation officer, except when the minor willfully misrepresents himself/herself as being 18 or older, the minor shall be released within 48 hours of being taken into custody, excluding nonjudicial days, unless within the 48 hours a petition to declare him/her a ward has been filed pursuant to the provisions of this chapter or a criminal

complaint against the minor has been filed in a court of competent jurisdiction.

- (2) Whenever a minor is taken into custody by a police officer or probation officer without a warrant on the belief that the minor has committed a misdemeanor, except when the minor misrepresents himself/herself as being 18 or older, the minor shall be released within 48 hours of being taken into custody or on the next judicial day, whichever is later, unless a petition has been filed to declare the minor to be a ward and the minor has been ordered detained by a judge or referee of the juvenile court pursuant to Section 635.
- (3) Whenever a minor who has been in custody for more than six hours by a probation officer is subsequently released and no petition is filed, the probation officer shall prepare a written explanation of why the minor was held in custody for more than six hours. Written explanation shall be prepared within 72 hours after a minor is released from custody and shall be filed in the record of the case. A copy of the written explanation shall be sent to the parent/guardian or other person having care or custody of the minor.

- e. **Welfare and Institutions Code Section 632.** Unless already released, a minor taken into custody under provisions of this article shall be brought before a judge or referee of juvenile court for a hearing to determine whether the minor shall be further detained, as soon as possible but in any event before expiration of the next judicial day after a petition to declare the minor a ward or dependent child has been filed. A minor taken into custody without a warrant on the belief that he/she has committed a misdemeanor not involving violence, a threat of violence, or possession or use of weapons, and not currently on probation or parole, shall be brought before a judge or referee of juvenile court for a hearing to determine whether he/she shall be further detained, as soon as possible but no

later than 48 hours or before expiration of the next judicial day after a petition to declare the minor a ward has been filed. If a minor is not brought before a judge or referee of juvenile court within the period prescribed by this section, he/she shall be released from custody.

7. Citizen's Arrest

- a. **When appropriate, officers may advise citizens of their authority** to make a private person's arrest of a minor under Penal Code Section 837. The person making the arrest should be advised that a juvenile investigator will contact him/her concerning disposition of the case. It is imperative that a phone number where the citizen can be contacted be included in the report.
- b. **When a minor is placed under arrest by a private person**, the officer should process the minor in the same manner as in C.6.b. A minor immediately shall be advised of his/her rights under Welfare and Institutions Code Section 625 and be transported to the police station, released to a parent in the field, or processed in the same manner as in C.6.c.

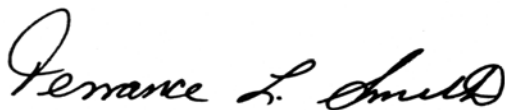
D. IMPLEMENTATION (Section C.)

E. FORMS AND AUXILIARY REFERENCES

1. Proof of Counseling letter on Fire Department letterhead
2. Social Services Custody Verification Form, Attachment

F. REPORTS AND RECORDS

G. APPROVED BY



Chief of Staff, Terrance L. Smith
For the Superintendent of Public Education