



Rocky Mountain  
SCHOOL DISTRICT NO. 6

## POLICY NO. 5850

### INTERROGATION OF PUPILS

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#### POLICY

The Board of School Trustees believes that none of its policies or practices should obstruct the police or Ministry of Children and Family Development personnel in the performance of their duties. Nevertheless, the Principal is expected to act as a reasonable parent might in such matters, and ensure that the rights of the pupil are protected.



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#### REGULATIONS:

#### 1. Ministry of Children and Family Development:

##### 1.1 Investigations:

In cases of child abuse or neglect being investigated by social workers, administrators should not contact parents when they are informed that an investigation is taking place, unless specifically asked to do so by the investigating social worker. The responsibility for contact with the parents of the child who is allegedly abused or neglected rests with the investigating social worker.

- (i) In such cases, an educator (a principal or a teacher) may be requested to be present at an interview to provide support to the child; however, the presence of an educator is certainly not mandatory. The appropriateness of the educator's attending when a child is being interviewed in cases of abuse or neglect is determined by the social worker, not by the educator. A social worker investigating child abuse is carrying out the legislative mandate for the protection of children if necessary. Section 30 of the Child, Family and Community Services Act permits a representative of the Superintendent of Family and Child Service to apprehend a child in any location, including a school.

##### 1.2 Other Consultation:

The school should work in partnership with the Ministry of Children and Family Development, in particular in situations where third party intervention or support is required.

#### 2. Police:

##### 2.1 Initiated By The School:

- (i) The school administration should avoid calling the RCMP when the purpose of the interviews is the maintenance and enforcement of school rules.
- (ii) When an administrator is concerned that a breach of student conduct involves a breach of the Criminal Code, i.e. theft, physical assault, or breach of the Narcotics Act (possession of illegal drugs), then the Principal has the right to question the student involved in the same manner as s/he would question a student in respect of any other breach of student conduct.
- (iii) If, however, the Principal obtains information from the student relating to a criminal act by that student and delivers the student's statement to the RCMP, such statement could not be used by the RCMP against the student as an admission, unless the Principal had first, before obtaining the statement, complied with Section 56 of the Young Offenders Act, which provides:

*Section 56:*

- (1) *Subject to this section, the law relating to the admissibility of statements made by persons accused of committing offences applies in respect of young persons.*

- (2) *No oral or written statement given by a young person to a peace officer or other person who is, in law, a person in authority on the arrest or detention of the young person or in circumstances where the peace officer or other person has reasonable grounds for believing that the young person has committed an offence is admissible against the young person unless:*
- (a) *the statement was voluntary;*
  - (b) *the person to whom the statement was given has, before the statement was made, clearly explained to the young person, in language appropriate to his/her age and understanding that:*
    - (i) *the young person is under no obligation to give a statement;*
    - (ii) *any statement given by him may be used as evidence in proceedings against him;*
    - (iii) *the young person has the right to consult counsel and a parent or other person in accordance with paragraph (c), and;*
    - (iv) *any statement made by the young person is required to be made in the presence of counsel and any other person consulted in accordance with paragraph (c), if any, unless the young person desires otherwise;*
  - (c) *the young person has, before the statement was made, been given a reasonable opportunity to consult:*
    - (i) *with counsel, and*
    - (ii) *a parent, or in the absence of a parent, an adult relative, or in the absence of a parent and an adult relative, any other appropriate adult chosen by the young person; and*
  - (d) *where the young person consults any person pursuant to paragraph (c), the young person has been given a reasonable opportunity to make the statement in the presence of that person.*
- (3) *The requirements set out in paragraphs (2)(b), (c), and (d) do not apply in respect of oral statements where they are made spontaneously by the young person to a peace officer or other person in authority before that person has had a reasonable opportunity to comply with those requirements.*
- (4) *A young person may waive the rights under paragraph (2) (c) or (d) but any such waiver shall be videotaped or be in writing, and where it is in writing it shall contain a statement signed by the young person that the young person has been apprised of the right being waived.*
- (5) *A youth court judge may rule inadmissible in any proceedings under this Act a statement given by the young person in respect of whom the proceedings are taken if the young person satisfies the judge that the statement was given under duress imposed by any person who is not, in law, a person in authority.*
- (5.1) *A youth court judge may in any proceedings under this Act rule admissible any statement or waiver by a young person where, at the time of the making of the statement or waiver,*
- (a) *the young person held himself of herself to be eighteen years of age or older,*
  - (b) *the person to whom the statement or waiver was made conducted reasonable inquiries as to the age of the young person and had reasonable grounds for believing that the young person was eighteen years of age or older; and*
  - (c) *in all other circumstances the statement or waiver would otherwise be admissible.*
- (6) *For the purpose of this section, an adult consulted pursuant to paragraph 56 (2)(c) shall, in the absence of evidence to the contrary, be deemed not to be a person in authority.*
- (iv) If the Principal, for some reason, wishes to obtain a statement from the student concerned, which could be used as an admission against the student by the RCMP in subsequent criminal proceedings, then the Principal must first comply with Section 56 of the Young Offenders Act above. Each of its provisions must

be complied with if the statement is to be used against the student in a proceeding under that Act or the Criminal Code.

- (v) If the Principal is content to carry out his own investigation pursuant to his obligations under the School Act and allow the RCMP to carry out their independent investigation under the Federal Statutes, then the only limitation of the Principal's investigations are those contained in the School Act, namely, that he should act as a kind, firm and judicious parent.

## 2.2 Initiated by the Police:

- (i) Child Protection Issues

In accordance with the "Child Abuse Reporting Protocol - School District No. 6 (Rocky Mountain)", the RCMP will only be involved if it appears a criminal offence has occurred.

- (ii) Criminal Investigations

- (a) Where the RCMP have the legal authority to interrogate, that legal authority must be respected at all times by school administrators. This will occur when the RCMP have a warrant of arrest, a search warrant, or are in hot pursuit in the investigation of an offence.

- (b) If the RCMP requests an interview with a student who is under the school's supervision, the Principal or the RCMP, whichever is appropriate, shall seek permission from the parent or guardian. If the parent grants permission for the interview with the Principal present, the parent must speak directly to the Principal, or, if deemed necessary, give written permission.

- (c) If the RCMP claims the right by federal or provincial statute to interview the student without a parent or guardian present, the Principal shall consent but keep a written record of the circumstances, preferably signed by the attending RCMP officer.

- (d) Interviews and interrogations by persons in authority of students who are between the ages of twelve and seventeen inclusive are governed by Section 56 of the Young Offenders Act.

- (iii) Potential Witness

- (a) The RCMP should be strongly encouraged to interview the student when they are not under the supervision of the school.

- (b) If this is not possible, the parent/guardian should be contacted.

- (c) The parent/guardian should be present at such an interview.

- (d) The administrator should not assume this parental responsibility.

Legal Reference: School Act, Section 76, 85  
School Act, Regulation 5 (7) (g)  
BCSTA Legal Opinion 1697  
BCSTA Legal Opinion - December 1, 1986  
Young Offenders Act, Section 56

