



Arthurs Creek Primary School
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POLICE AND DHHS INTERVIEWS POLICY

(Child Safe Standard 5)

Reference: Information Last Update: 20 April 2017

Policy and Advisory Guide

<http://www.education.vic.gov.au/school/principals/spag/safety/Pages/interview.s.aspx>

RATIONALE

To assist ACPS Staff to comply with their legal requirements when a request is made by Victoria Police or Department of Health and Human Services (DHHS) Child Protection Workers to interview a student without parental consent.

This information is designed to assist principals and staff to cope with what are often stressful and delicate situations.

BACKGROUND

As law enforcement officers, police have broad powers to investigate, question, search and detain. For the most part, police will conduct interviews of witnesses and suspects at the police station. However, there will be rare urgent circumstances in which police may wish to interview a student under the age of eighteen at school. How this should be approached will depend upon whether the student concerned is:

- a victim,
- a witness; or
- a suspect

Child Protection workers also have wide powers to investigate and obtain information that is relevant to the protection or development of a child. Interviews by child protection workers would normally be carried out in the home with parents/carers present but, as for police, there will be occasions with Child Protection workers need to interview a child at school as a matter of urgency or necessity.

POLICY: PRINCIPALS OR THEIR DELIGATE STAFF MUST

- facilitate interviews requested by police or DHHS Child Protection Workers
- balance their obligation to protect the rights of students with their obligation to assist the police/child protection in their exercise of duty



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- act in accordance with the protocol between the Victorian Police and the Department, if the request for access involves a criminal offence
- ensure there is someone acting as an independent supportive adult for students interviewed at school by Victoria Police or Child Protection workers

Important: The interview of a student at school by Victoria Police or DHHS child protection is not permitted unless someone is acting as an independent supportive adult for that student.

See: Police - Department Protocols within [Related policies](#) below

Student as victim or witness:

When principals allow interviews involving students who may be victims or witnesses, they should:

- support and encourage the student to provide as much information as possible
- inform the student that a note of the circumstances and the content of the interview will be made and communicated to their parents/guardians as soon as possible, unless doing so causes risk of abuse

This table describes how principals should determine when to grant an interview request with a student who may be a victim or witness.

When the principal	then the principal should
Is requested to allow a child or young person to be interviewed at school without the parents/guardians present	Allow the interview if: <ul style="list-style-type: none"> • there are reasonable grounds to exclude the parents/guardians from the interview. Example: the interview involves an allegation of abuse involving parents, carers, siblings or other members of the student's family, or a person with some relationship to the family • the student is supported by an adult
Is satisfied that immediate action is necessary and cannot contact the parents/guardians	Allow the interview with the principal or suitable delegate representing the parents/guardians
Is not satisfied that immediate action is required	Only allow the interview when: <ul style="list-style-type: none"> • a parent/guardian or their nominee is present • parents/guardians authorise the principal to act as their representative



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Is informed that a number of students need to be interviewed in order to identify potential witnesses

Only allow the interview:

- to identify witnesses for further interviews
- with the principal or suitable delegate present

Student as suspect:

A suspect to a crime under the age of 18 may not be questioned by police unless the suspect's parent or guardian is present.

If a parent or guardian is not available, an independent person must be present.

The suspect must be given the chance to talk to the parent, guardian or independent person in a place where they won't be overheard (*s.464E Crimes Act (Vic.)*)

However, police do not have to wait until the parent, guardian or independent person is present where:

- communication would result in the escape of an accomplice or the destruction of evidence; or
- the safety of other people means that questioning should not be delayed
- It can be seen from this that a child suspect will only be interviewed by police at school without a parent present in very urgent and extreme situations.

When approached by police and advised that a student suspect is to be interviewed, the principal must:

- try to advise the parents/guardians of the situation
- inform the student that a note of the circumstances and the content of the interview will be made and communicated to their parents/guardians as soon as possible
- if the parent/guardian is unavailable, ensure that the student has an independent support person at the interview
- always consider:
 - their duty of care to the student
 - their duty of care to all other students at school
 - the rights of the parents/guardians



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ACTING IN THE ABSENCE OF PARENTS/GUARDIANS:

When the parents/guardians	then the principal should allow the interview if the questioning or investigation
Cannot be present because they: <ul style="list-style-type: none"> cannot be contacted, or have not authorised the principal or their delegate to act as their representative 	Is urgently necessary to avert: <ul style="list-style-type: none"> injury to others miscarriage of justice
Do not agree to the interview	Is so urgent for the safety of other people that it should not be delayed

Duties of department employees as parent/guardian representatives:

This table describes how Department employees should conduct themselves when acting as a support person for students during interviews.

When	Department employee should
At all times	<ul style="list-style-type: none"> support the student ensure the student understands what is happening ensure the student understands their rights
Before the interview	be aware that: <ul style="list-style-type: none"> in more serious cases, the most appropriate advice may be that there is no compulsion to answer police questions and the student should seek legal advice in less serious cases, the most appropriate advice may be to cooperate fully with the police inform the student that, although it is advisable to do so, they are not legally obliged to provide their name and address to police unless: <ul style="list-style-type: none"> they are driving a motor vehicle police have reasonable grounds to believe that the student has or is about to commit an offence, or the student can assist in the investigation of a indictable offence police or an officer authorised under the <i>Transport Act 1983</i> have reasonable grounds to believe that the student has or is about to commit an offence against the Transport Act or its regulations, such as travelling on a train without a valid ticket



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When	Department employee should
During the interview	<ul style="list-style-type: none">• focus on supporting the child• refrain from providing their own opinions or account of events• refrain from asking the child questions about the offence or their guilt or acting as an authority figure• ensure that they will be in a position to give an accurate account of the interview in any court proceedings, either by taking notes during the interview or making a note immediately afterwards

RELATED POLICIES AND RESOURCES

- [Child Protection - Mandatory Reporting](#)
- [Police - Department Protocols](#)
- [Responding to Student Sexual Assault](#)

RELATED LEGISLATION

- *Crimes Act 1958*
- *Education and Training Reform Act 2006*
- *Transport Act 1983*