

Legally Speaking

Copyright © 2011 by The School Board of Pinellas County, Florida

VOLUME XII, ISSUE 2

Winter 2011

In This Issue

On-Campus Student Interviews and Arrests by Law Enforcement 1

Employee Responsibility for Lost or Stolen Property 1

Student Fines, Fees and Charges 3



The School Board of Pinellas County, Florida, prohibits any and all forms of discrimination and harassment based on race, color, sex, religion, national origin, marital status, age, sexual orientation or disability in any of its programs, services or activities.

School Board Members

Robin L. Wikle
Chairperson
Carol J. Cook
Vice Chairperson

Janet R. Clark
Terry Krassner
Linda S. Lerner
Peggy L. O'Shea

John A. Stewart, Ed.D.
Superintendent

www.pcsb.org

On-Campus Student Interviews and Arrests by Law Enforcement

By James A. Robinson, General Counsel
Laurie A. Dart, Associate Counsel

The school board is a party to two separate agreements regarding interviews and arrests of students by law enforcement on school grounds. The first is the Interagency Agreement with Law Enforcement dated Nov. 9, 2010, with the Pinellas County Sheriff and all other local law enforcement agencies. The other is the Memorandum of Understanding Regarding Quality of Education – Student Discipline with the Plaintiffs’ attorneys in the Bradley case approved by the school board on May 25, 2010.

The Interagency Agreement provides that interviews of student witnesses and suspects with respect to off-campus criminal activity will generally occur off campus if the incident is not of a serious nature (misdemeanor as opposed to felony level offense). The interview may be conducted on campus if the offense is of a serious nature posing a substantial threat to the public safety. The investigating law enforcement officer has sole discretion to determine the seriousness of the activity and necessity for on-campus interview.

Interviews with respect to on-campus criminal activity



This issue of Legally Speaking is dedicated to Mr. Lew Williams, who passed away on Dec. 3, 2011. Mr. Williams was a lifelong educator, having served the district as a teacher and administrator for 34 years until his retirement in 2005 as an area superintendent. He was elected to the school board in 2010. Mr. Williams was a staunch advocate for all children, but held a special place in his heart for those students with the greatest needs. He was greatly respected and will be sorely missed.

(Continued on page 2)

Employees Responsibility for Lost or Stolen Property

By Ted Pafundi, Director Risk Management and Insurance

Please remember that in accordance with School Board Policy 7300, Property Custodianship and Insurance, employees are responsible for property assigned directly to them and for property assigned to their classroom or work area, including but not limited to student laptops, net books, iPads, classroom computers, projectors, musical instruments etc. At the beginning of every school year, employees must sign a current Property Removal Contract. Please review the requirements

(Continued on page 3)

On-Campus Student Interviews
(Continued from page 1)

may occur on campus.

The following procedures apply to all on-campus interviews:

Interagency Agreement:

- There will be prior notification of parents or good faith effort to notify them; however, the interview may proceed if the officer deems that prior parental contact would be detrimental and the officer's supervisor approves.
- School personnel shall not notify parents if law enforcement determines that such notice would be detrimental.
- Law enforcement will always notify an administrator before the interview.
- Interviews are a law enforcement function and the presence of a school official is not required during the interview (whether the student is a suspect or witness) - no school official shall be present during these interviews unless requested by the law enforcement officer.

If an arrest is made after an on-campus interview, the law enforcement officer will notify the school principal or designee and complete the requisite release form.

The Memorandum of Understanding on Student Discipline:

The Memorandum reflects the district commitment to a safe and supportive learning environment in schools, to protect students and staff from conduct that poses a serious threat to school safety, and to use alternatives to expulsion or referral to law enforcement agencies. Petty acts of misconduct and misdemeanors, including, but not limited to, minor fights or disturbances, should ordinarily not be referred to law en-

forcement and should not ordinarily result in student arrest.

The district encourages schools to use alternatives to expulsion or referral to law enforcement agencies unless the use of such alternatives will pose a threat to school safety.

The district will encourage school resource officers (SROs) to exercise their discretion to divert student offenders to appropriate school-based discipline, where appropriate and authorized by department policy and applicable law.

It is the district's practice that a school representative is present during questioning of students on campus by law enforcement concerning school-related offenses.

A school representative will ordinarily, when reasonably available, be present, in the absence of a parent, during suspect interrogation of students on campus by outside law enforcement concerning a non-school related offense. The law enforcement officer, parent, or student may direct that the school representative not be present. The school representative shall not be expected or required to advocate on behalf of the student, and neither the representative nor the school board is responsible for the manner or outcome of the interrogation. Police interrogation is a law enforcement function. Chapter 39, F.S., prescribes different procedures in the case of child protective investigations, which shall be followed whenever applicable.

You will note an apparent conflict between the underlined language from the Interagency Agreement and the underlined language from the Memorandum. These provisions can and must be reconciled by construing them to mean that an administrator should ask to be present and should be present unless directed otherwise by the law enforcement officer.



The school board and superintendent are committed to minimize the involvement of law enforcement to only those cases where such involvement is necessary or appropriate. Toward this end, petty acts of student misconduct need not, and should not, be reported to law enforcement by administrators. In fact, recent legislation provides that zero-tolerance policies do not require the reporting of petty acts of misconduct and misdemeanors to a law enforcement agency, including, but not limited to, disorderly conduct, disrupting a school function, simple assault or battery, affray, theft of less than \$300, trespassing and vandalism of less than \$1,000. Our *Policy, 5500.08, Code of Student Conduct – Misconduct that Requires Specific Consequences*, defines petty acts of misconduct as those that an administrator reasonably believes do not pose a threat to the safety of students, staff, volunteers or other persons, or a threat of harm to school property.

The Office of General Counsel is always available if you have any questions about the involvement of law enforcement in criminal investigations in your schools. ■

Student Fees, Fines and Charges

By James A. Robinson, General Counsel

The school board will provide students the necessary textbooks and electronic textbooks required by their course of study free of charge. It is sometimes necessary to charge students a fee for other appropriate curricular as well as co-curricular and extra-curricular, noncredit courses. Such materials may include magazines, workbook materials, paperback selections and laboratory supplies, for clubs, independent study or special projects, and district-sponsored trips. **Policy 6152, Student Fees, Fines and Charges** governs such fees and charges. Parents and students may seek a waiver of fees pursuant to **Policy 6152.01, Waiver of School Fees**. Here are some general rules:

Fees and Fines

- Students may not be required to contribute money for the purchase of incidental items such as physical education clothing, enrichment publications, and other materials not furnished by the board.
- "School fees" or "fees" mean any monetary charge collected by the

district from a student or the parent(s) or guardian(s) of a student as a prerequisite for the student's participation in any curricular or extra-curricular program of the district.

- "School fees which can be waived (see below)," include, but are not limited to, the following:
 - all charges and deposits collected by a school for use of school property (e.g., locks, towels, laboratory equipment);
 - charges or rental fees for uniforms or equipment related to varsity and intramural sports, or to fine arts programs;
 - charges to participate in extra-curricular activities;
 - charges for supplies required for a particular class or for gym uniforms;
 - graduation fees;
 - school records fees.
- "School fees" do not include:
 - library fines and other charges made for the loss, misuse or destruction of school property;
 - charges for the purchase of class rings, yearbooks, pic-

tures, diploma covers or similar items;

- charges for optional travel undertaken by a school club or group of students outside of school hours;
 - charges for admission to school dances, athletic events or other social events;
 - optional community service programs for which fees are charged (e.g., preschool before and after-school child care or recreation programs).
 - A charge may not exceed the combined cost of the outside service provided or material used, freight and/or handling charges. Money received from resale of such material, if any, must be remitted to the school business office with an accurate accounting of all transactions.
- Fines may be assessed when school property, equipment or supplies are damaged, lost or taken by a student. The fine must be reasonable, designed only to com-

(Continued on page 4)

Employee Responsibility for Property *(Continued from page 1)*

listed on this form and take the appropriate steps to secure property assigned to you. The Property Removal Contract form must be completed and approved before any of your assigned equipment is removed from your work site.

The following guidelines are designed to assist you in securing property:

- Laptops and net books should be secured with locking cables or in locking carts.
- If you do not have locking cables, equipment must be secured in locking desks or file cabinets.

- Property must not be left in vehicles over night or in plain sight in vehicles during the work day.
- iPads and Kindles should have covers to protect them from damage and be kept secured in locked desks or file cabinets when not in use.

Please work with your administrator to determine the best way to secure district property and equipment.

In the event of damage or loss to school board equipment, a Damage and/or Loss of Business Property Report (Form 3-865) must be completed and submitted to Risk Management. If the claim appears to be

the result of negligence it will be submitted to the Lost Property and Equipment Review Committee for their review and determination. If the employee is found to be negligent, he/she will be required to reimburse the district for the loss.

Please remember that property losses not only affect your ability to do your job but directly impact our budget and the amount of funds available for other needs such as student programs, textbooks, salaries and benefits.

We all need to work together to minimize losses and provide for effective and efficient operations. ■

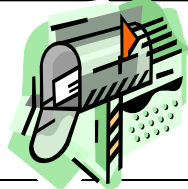
**PINELLAS COUNTY
SCHOOL BOARD
OFFICE OF GENERAL COUNSEL**

301 Fourth St. SW
PO Box 2942
Largo, FL 33779-2942
Phone: 727-588-6220
Fax: 727-588-6514
E-mail: davisme@pcsb.org

Legal Staff Members

James A. Robinson, General Counsel
David A. Koperski, Associate Counsel
Laurie A. Dart, Associate Counsel
Betty Turner, RP, Paralegal
Kerry Michelotti, Legal Secretary
Barbara Anson, Legal Secretary
Melanie Davis, Clerk Spec II - Newsletter Publisher

Please send comments or suggestions for future articles to Melanie Davis at davisme@pcsb.org.



Student Fees, Fines and Charges
(Continued from page 3)

pensate the school for the expense or loss incurred. (**Policy 2510, Instructional Materials Including Textbooks**, applies when a student loses, destroys or unnecessarily damages instructional materials.)

- The late return of borrowed books or materials from the school libraries is subject to appropriate fines.
- Any fees, fines and/or other charges collected by members of the staff must be remitted to the school business office within one business day after collection.
- Failure to pay fees and fines may result in the denial of participation in the graduation ceremony, athletics or any other extra-curricular activity. If the fee remains unpaid, the superintendent may pursue an action in Small Claims Court.

Waiver

- Students are not required to contribute money for the purchase of incidental items such as physical education clothing, enrichment publications and other materials not furnished by the board.
- The district may waive fees in the case of students who are found eligible, and grounds for eligibility include:
 - Students who qualify for free lunches or

breakfasts under the School Free Lunch Program Act;

- Students who are eligible to receive reduced price lunch or breakfast;
- Students whose families have suffered very significant losses of income due to severe illness or injury in the family or unusual expenses including, but not limited to, fire, flood or storm damage.

Notification to Parents/Procedures for Resolution of Disputes

- Annually the substance of Policy 6152.01 must be communicated in writing to the parent(s) or guardian(s) of all students in the district.
- The first bill or notice sent to parents or guardians who owe fees shall state:
 - The district will waive fees for persons unable to afford them in accordance with its policy.
 - The procedure for applying for a fee waiver, and the name, address and telephone number of the person to contact for information concerning a fee waiver.
- A parent or guardian who cannot pay school fees may write a letter requesting a waiver of fees to the superintendent. The letter must contain the following:
 - name of student
 - name of parent or guardian
 - address of parent or guardian
 - phone number of parent or guardian
 - school where child attends
 - reason for request for waiver of fees
- The superintendent may request such further information, if any, as s/he deems necessary in order to make a decision on that request.
- No fee shall be collected from any parent(s) or guardian(s) who is seeking a fee waiver in accordance with the district's policy until the district has acted on the initial request or appeal (if any is made), and the parent or guardian has been notified of the decision.
- If the superintendent denies a request for fee waiver, then a copy of the decision will be mailed to the parent or guardian within 15 school days of receipt of the request. The decision will state the reason for the denial and inform the parent or guardian of the right to appeal to the superintendent for a reconsideration of his/her decision, including the process and timelines for that action. The denial notice shall also include a statement informing the parent or guardian that reapplication may be made for a waiver any time during the school year, if circumstances change. The decision of the superintendent is final. ■

The Office of General Counsel
would like to wish you and your family a
safe and happy Holiday Season.