



## **POLICE AND DHHS INTERVIEWS POLICY**

### **Rationale**

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

### **Purpose**

- To assist the Principal to comply with her/his legal requirements when a request is made by Victoria Police or Department of Human Services (DHS) Child Protection Workers to interview a student without parental consent.
- To ensure Mackellar Primary School complies with DET policy in supporting students when a request is made by Victoria Police or Department of Health & Human Services (DHHS) Child Protection Workers to interview a student without parental consent.
- To ensure the school complies with the legislative requirements of the *Crimes Act 1958*, the *Education and Training Reform Act 2006* and the *Transport Act 1983*.
- To ensure the wellbeing of children whilst complying with a police or DHHS request for an interview.
- To ensure the school complies with Child Safe Standards 1 & 2.

### **Implementation**

The wellbeing of students is the school's highest priority

- The Principal will:
  - facilitate interviews requested by police or DHHS Child Protection Workers
  - balance the school's obligation to protect the rights of students with their obligation to assist the police/DHHS in their exercise of duty
  - act in accordance with the protocol between the Victorian Police and DET, 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 DHHS workers.
- When the Principal allows interviews involving students who may be victims or witnesses, she/he will:
  - 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.
- When approached by police and advised that a student suspect is to be interviewed, the Principal will:
  - 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 and the rights of the parents/guardians.
- If the Principal is requested to allow a child to be interviewed at the school without the parent/guardian being present, she/he will allow the interview if:
  - there are reasonable grounds for excluding them e.g. if the interview involves an allegation of abuse involving parents, carers, siblings, other members of the family or a person with some relationship to the family
  - immediate action is necessary and the school cannot contact the parent/guardian
  - if a number of students need to be interviewed in order to identify potential witnesses
- A suspect to a crime under the age of 18 years 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 opportunity to talk to the parent or guardian in a place where they will not be overheard.
- At all times DET employees are expected to:
  - support the student
  - ensure the student knows what is happening
  - understands his/her rights including the right to legal advice and that, although it is advisable to do, there is no compulsion to answer questions and that the student is not legally required to provide his/her name and address unless they are driving a motor vehicle, that police have reasonable grounds to suspect is about to or has knowledge of an offence
  - refrain from expressing their own opinion
  - refrain from questioning the student
  - ensure 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 immediately afterwards
- For further information, please go to the web reference below.
- Please refer also to the school's Child Safe Policy, the *Mandatory Reporting Policy* and the *Duty of Care Policy and the Child Safe Standards*

### **Evaluation**

- This policy will be reviewed as part of the school's three-year review cycle or if guidelines change (latest update mid-January 2016).

This policy was ratified by School Council on August 2016

Reference:

[www.education.vic.gov.au/principals/spag/safety/Pages/childprotection.aspx](http://www.education.vic.gov.au/principals/spag/safety/Pages/childprotection.aspx)