

## School Guidelines 2.19a

# Police and DHHS Interview Protocols

*These Guidelines are to be read in conjunction with **Policy 2.19 Child Protection – Reporting Obligations***

Catholic Education Melbourne is committed to supporting schools to take a proactive role in the care, wellbeing and protection of children and young people.

## Purpose

This protocol is designed to assist principals:

- to understand and 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*
- 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; or
- 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 when Child Protection workers need to interview a child at school as a matter of urgency or necessity.

## Protocols

Principals must:

- facilitate interviews requested by police or DHHS Child Protection Workers
- advise children or young people of their right to have a supportive adult present at such an interview. This may be the principal or a teacher.
- arrange for the child to choose a supportive adult to be present
- balance their obligation to protect the rights of students with their obligation to assist the police/child protection in their exercise of duty
- ensure there is someone acting as an independent supportive adult for students interviewed at school by Victoria Police or Child Protection workers.
- observe confidentiality at all times in the management of a mandatory reporting or criminal case

If legal assistance is required, contact Catholic Education Melbourne in the first instance.

**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.

## 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	<p>allow the interview if:</p> <ul style="list-style-type: none"> <li>• there are reasonable grounds to exclude the parents/guardians from the interview. <b>Example:</b> 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.</li> <li>• the student is supported by an adult.</li> </ul>
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	<p>only allow the interview when:</p> <ul style="list-style-type: none"> <li>• a parent/guardian or their nominee is present</li> <li>• parents/guardians authorise the principal to act as their representative.</li> </ul>
is informed that a number of students need to be interviewed in order to identify potential witnesses	<p>only allow the interview:</p> <ul style="list-style-type: none"> <li>• to identify witnesses for further interviews</li> <li>• with the principal or suitable delegate present.</li> </ul>

## 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, and the principal is satisfied the matter is urgent, 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 1958 (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.

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
- In co-operating with a legitimate request from police the principal must 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.

## 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"> <li>• cannot be contacted, or</li> <li>• have not authorised the principal or their delegate to act as their representative</li> </ul>	is urgently necessary to avert: <ul style="list-style-type: none"> <li>• injury to others</li> <li>• miscarriage of justice.</li> </ul>
do not agree to the interview	is so urgent for the safety of other people that it should not be delayed.

## Duties of employees as parent/guardian representatives

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

When	Employee should
<b>At all times</b>	<ul style="list-style-type: none"> <li>• support the student</li> <li>• ensure the student understands what is happening</li> <li>• ensure the student understands their rights.</li> </ul>
<b>Before the interview</b>	<p>be aware that:</p> <ul style="list-style-type: none"> <li>• 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</li> <li>• in less serious cases, the most appropriate advice may be to cooperate fully with the police.</li> </ul> <p>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:</p> <ul style="list-style-type: none"> <li>• they are driving a motor vehicle</li> <li>• 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</li> <li>• 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.</li> </ul>

When	Employee should
<b>During the interview</b>	<ul style="list-style-type: none"> <li>• focus on supporting the child</li> <li>• refrain from providing their own opinions or account of events</li> <li>• refrain from asking the child questions about the offence or their guilt or acting as an authority figure.</li> <li>• 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.</li> </ul>

## Further information

Catholic Education Melbourne Wellbeing & Community Partnerships Unit operates the ***Student Wellbeing Information Line (9am – 5pm daily) 03 9267 0228***

The *Student Wellbeing Information Line* seeks to:

- address matters that impact the wellbeing and educational outcomes of young people arising in Catholic school communities using a solution focused framework
- act as a conduit between the school and family to promote effective communication and resolution of enquiries
- empower and enhance the capacity, competence and confidence of stakeholders to address matters related to the wellbeing of young people.