Students

Requests to Contact Students and Student Interviews by Non-School Personnel

A. Removals of Students and Interviews of Students

In dealing with law enforcement officials, McCool Junction Public Schools' employees are not to obstruct government operations or unreasonably refuse or fail to aid a peace officer, but are also to attempt to prevent undue interference with District operations or educational programming.

1. Removals of Students by Law Enforcement Officials

Law enforcement officers should not be permitted to remove a child from school while the child is properly in attendance, without permission of the child's parent or guardian, except when legally authorized to do so. For purposes of this policy, a law enforcement officer is defined as: sheriffs, coroners, jailers, marshals, police officers, state highway patrol officers, members of the National Guard on active service by direction of the Governor during periods of emergency, and all other persons with similar authority to make arrests. (Neb. Rev. Stat. §49-801).

Law enforcement officers may in the line of duty require a student to accompany him or her for questioning or detention either with or without an arrest warrant. A peace officer has the lawful authority to take immediate temporary custody of children under the age of 18 with an arrest warrant, or without a warrant or order of the court when:

(a) the child has violated a state law or a municipal ordinance and the officer has reasonable grounds to believe the child committed such violation;
(b) the child is seriously endangered in his or her surroundings and immediate removal appears to be necessary for the child's protection;
(c) the officer believes the child to be mentally ill and dangerous as defined in Neb. Rev. Stat. §71-908 and that the harm described in that section is likely to occur before proceedings may be instituted before the juvenile court;
(d) the officer has reasonable grounds to believe that the juvenile has run away from his or her parent, guardian, or custodian;
(e) a probation officer has reasonable cause to believe that a juvenile is in violation of probation and that the juvenile will attempt to leave the jurisdiction or place lives or property in danger; or
(f) the officer has reasonable grounds to believe the juvenile is truant from school. (Neb. Rev. Stat. §§43-418 and 43-248).

If a peace officer or probation officer requests to take custody of a student who is at that time under the control and jurisdiction of McCool Junction Public Schools, the following action is to be taken:

(a) Establish Authority to Remove. The student should be released after appropriate measures are taken and documented to ensure that the officer has the authority to take the student. The form attached as Exhibit "A" to this Policy may be used for this purpose.

(b) Notify Local Law Enforcement. In some instances there may be orders for custody of a student served by the officers with authority to arrest from outside the jurisdiction of McCool Junction Public Schools. Local law enforcement should be contacted and requested to participate in or monitor the removal.

(c) Notify Parent of Removal. When a principal or other school official releases a minor student to a peace officer for the purpose of removing the minor from the school premises, the principal or other school official shall take immediate steps to notify the parent, guardian, or responsible relative of the minor regarding the release of the minor student to the officer and the place to which the student is reportedly being taken. Provided, however, when a minor student has been taken into custody as a victim of suspected child abuse, the principal or other school official is not required to notify the parent or guardian, but shall provide the peace officer with the address and telephone number of the minor student's parents or guardian.

A student should not be released to a private detective or "special police officer" who is not an officer of a Nebraska political subdivision or an officer of an agency of the federal government without consent of the student's parent, guardian or custodian.

2. Interviews of Students by Law Enforcement Officials

Law enforcement officers and other law authorities should be urged to contact students for questioning outside the instructional day and off school premises whenever possible. When it is appropriate that such questioning occur, the following guidelines are to be followed:

(a) Interviews not related to District Events. If an interview of a student is requested during school hours concerning an ongoing investigation of a crime not related to McCool Junction Public Schools, questioning should not take place until the student's parent, guardian or custodian has been contacted and permission is given for such interview. The consent should be documented. The

presence of a school employee during the interview is not necessary.

(b) Interviews not related to District Events. If the investigation relates to an incident which took place on school premises or during instructional time, it is not necessary to obtain consent of the student's parent, guardian or custodian. In these situations, an employee of the District should be present during the interview to ensure that the interview relates only to the incident which took place on school premises or during instructional time or something which is directly related thereto.

(c) Child Abuse or Neglect. If an investigator represents that an interview is necessary to collect information concerning an allegation of child abuse or neglect or an offense involving a family relation and it is clear that obtaining parental consent for the interview would be impossible or counter-productive, the interview may be conducted without consent of the student's parent, guardian or custodian. In these situations, an employee of McCool Junction Public Schools should be present during the interview to ensure that the interview relates only to those matters.

(d) Probation Officer Interview. A probation officer assigned to a student by a court may be allowed the opportunity, on request, to interview a student on school premises. In such situations, it is neither necessary nor desirable that a District employee be present during the interview. It also is not necessary to obtain the consent of the parent, guardian, or custodian.

3. Disclosure of Student Records

School employees shall not, in the course of dealing with a peace officer or probation officer, disclose any confidential student records or information from such student records other than in response to a court order or subpoena or as otherwise authorized by state law and the Family Educational Rights and Privacy Act (FERPA).

4. Removals and Interviews by Persons other than Law Enforcement Officials

A person who comes to school premises to interview a student or remove a student prior to the end of the student's instructional day must obtain permission of an administrator or designee.

Permission to remove is not to be granted without consent of the student's parent, guardian or custodian, or a person authorized by the student's parent, guardian or custodian to give such permission.

Permission to interview on subjects not related to school matters is not to be granted unless there is a clearly valid and proper reason for the interview and such is not disruptive to school operations or the student's educational program. Ordinarily such contacts shall be restricted to the student's parent, guardian or custodian or a friend of the family when an emergency or other similar circumstance exists.

Legal Reference: Neb. Rev. Stat. §§43-248; 43-418; 79-294; 79-2104
20 U.S.C. §1232g (FERPA)

Date of Adoption: [Insert Date]

AR-5413--Exhibit A

Affidavit and Release to Remove Student

Date:_____

The undersigned hereby states and affirms to the McCool Junction Public Schools as follows:

1. That I am duly-appointed and acting peace officer employed by _____ and am currently acting within the scope of such employment.

2. That request is hereby made of the McCool Junction Public Schools to deliver to me the following named student:_____.

3. That I am entitled to immediate physical custody of said student by virtue of:

   ( ) Neb. Rev. Stat. 43-248 for the reason that said student (1) violated a state or municipal law in my presence, (2) is believed by me to have committed a felony, (3) is seriously endangered in his or her surroundings and immediate removal appears to be necessary for the student's protection, or (4) is believed to have run away from his or her parent, guardian, or custodian.

   ( ) There having been issued a valid warrant for such student's arrest, a true copy of which is attached hereto.

   ( ) There being reasonable grounds for me to arrest such student without a warrant, such grounds being that: _____
   _____

   ( ) Other (specify) the student being placed under arrest due to following authority: _____
   _____

4. That the undersigned will take immediate action to notify the parent(s), custodian, or legal guardian of said student that said student has been taken into custody and the reason or reasons for said custody.

5. That the undersigned has the legal right to take custody of the student without the consent of said student's parent(s), guardian, custodian, or the McCool Junction Public Schools.

6. That any facts or circumstances set out on the back of this affidavit and release are true and correct and are incorporated herein by reference.

_____

(Give complete description of officer's name and position, including badge number)

AR-5413--Exhibit B
Affidavit to Interview or Question Student

Date:_____

The undersigned requests the right to interview or question _____, a student of the McCool Junction Public Schools, and hereby states and affirms to the McCool Junction Public Schools as follows:

( ) That the undersigned is a duly appointed probation officer acting pursuant to a valid appointment by the _____ Court of _____ County, Nebraska.

( ) That the undersigned is duly authorized by law to investigate allegations of criminal activity and this request is made to facilitate such an investigation.

( ) That the undersigned is duly authorized by law to investigate allegations of criminal activity and this request is made to facilitate an investigation of criminal activity which occurred on the school premises.

( ) That the undersigned is duly authorized by law to investigate allegations of abuse or neglect as defined in Neb. Rev. Stat. 28-710(3) and this request is made to facilitate an investigation where a family member is alleged to have committed acts of abuse or neglect against the above-named student.

( ) That requesting consent to the interview from the child's parent or guardian and notification of child's parent or guardian of the interview would be counter productive, and request is hereby made that the same be kept confidential.

That the additional information, if any, set out on the back of this affidavit is true and correct and is incorporated herein by reference.

_____
(Give complete description of officer's
name and position including badge number)