

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

Any person other than an employee or agent of the school who comes to the school to talk to or take a student out of school must obtain permission of the principal or superintendent of schools or school designated official prior to contacting the student. The school official shall not grant permission unless that person has a clearly valid and proper reason for contacting the student. Ordinarily such contacts shall be restricted to parents of the student, a close friend of the family when a dire emergency exists, or a law enforcement official. Law enforcement officers should be urged to contact the students outside the school whenever possible.

Students Involved in Law Enforcement Contacts

It shall be the policy of the Arlington Public Schools that every effort will be made to facilitate the solution of problems involving students enrolled in the district's schools. While some of these problems may be indirectly related to the school setting, any effort to facilitate solutions of such problems will be made consistent with applicable federal and state law.

Emergency Protective Custody

Nebraska law gives peace officers the authority to take immediate temporary custody of children under the age of 18 without a warrant or order of the court (1) when, in the presence of the officer, the juvenile has violated a state law or a municipal ordinance; (2) when a felony has been committed and the officer has reasonable grounds to believe such juvenile committed it; (3) when such juvenile is seriously endangered in his or her surroundings and immediate removal appears to be necessary for the juvenile's protection; or (4) when there are reasonable grounds to believe that the juvenile has run away from his or her parent, guardian, or custodian. If a peace officer (defined for the purpose of this Policy as a member of the Washington County Sheriff's Department) comes to the school and requests custody of a student, custody should be granted only after the peace officer has completed and signed an affidavit and release in the form set out in Exhibit "A" to this Policy. The signed affidavit and release should be retained as a part of the permanent records of the school. In situations where the peace officer takes custody of a student, attempt should be made to immediately notify the parent, provided, however, that in the event circumstances are communicated to the school official which would indicate that immediate notification of the parent could interfere with the officers' performance of their duties or create a dangerous situation for the students or officers, then notification can be deferred for a reasonable time. In the event delay in notification takes place, the reasons for the delay shall be documented in the file and attempt shall be made to notify the parents as soon as circumstances dictate. Nebraska law places a burden on the peace officer to notify the parent, guardian, or custodian that a child has been taken into custody; however, this should not be interpreted as releasing the school from its duty of notification.

Probation Officers

When the juvenile court or regular adult court has taken jurisdiction of a matter involving a student and assigned a probation officer, opportunity should be given to the probation officer, on request, to interview the child at school, free from the observation of other children or individuals. In such situations, it is neither essential nor desirable that the principal or his or her agent be present at these interviews or visits. It also is not necessary to obtain the consent of the parent, guardian, or custodian for such interview. The probation officer has been duly authorized by the court following the proper acceptance of the case in juvenile or regular court to investigate the matter for the court. Prior to allowing the interview by the probation officer, the probation officer must complete and sign an affidavit in the form set out in Exhibit "B" to this Policy; and said affidavit should be retained in the permanent records of the school. In addition, if a written copy of the probation order or other authorization from the court is available that should be made a part of the school record, as well.

In the event the child is placed on probation, the probation officer has the statutory authority to arrest the person under his supervision in certain circumstances and that power is similar to the power granted to a peace officer by law. Whenever a probation officer requests authority to take a student under his or her supervision into custody, in addition to obtaining the affidavit referred to in Exhibit "B" to this Policy, the school official should also have the probation officer complete and sign an affidavit and release in the form set out in Exhibit "A" to this Policy; and said affidavit and release should be retained in the school's permanent file.

Arresting Officers

A regular peace officer, whether a member of i.e. the Washington County Sheriff's Department, may in the line of his or her duty may require a student to accompany him or her to headquarters for questioning or detention. Such action on the part of a peace officer constitutes an arrest. In these situations, the officer may or may not have a written arrest warrant issued by a court. Before a student is released to a peace officer, such officer should be required to complete and sign an affidavit and release in the form set out in Exhibit "A" to this Policy; and such affidavit and release should be retained in the school's permanent file. Whenever custody of a student is turned over to a peace officer, the parents of such student should be notified immediately.

In some instances there may be orders for custody of a student served by the FBI, a federal marshal, a postal inspector, another federal officer, state officials, or officers from another town or county. While these officers may have authority to arrest and remove children from school, there are very few, if any, situations when they cannot involve a member of the Washington County Sheriff's Department in making the actual arrest. If a member of the Washington County Sheriff's Department is participating in the arrest, he or she should complete and sign an affidavit and release in a form such as that set out in Exhibit "A" to this Policy. If possible, the non-local officer who is participating in the arrest should also sign the affidavit and release. A copy of any written arrest warrant or other authorization should also be kept with the school's permanent records together with the signed affidavit and release. If a law enforcement official other than a member of the Washington County Sheriff's Department requests that custody of a student be turned over to him or her, he or she should be requested to involve one of the local officers. If such request is refused, an attempt should be made to positively identify the

officer; and permanent evidence of that identification should be retained in the school's permanent files, together with a copy of the signed affidavit and release and copies of any other written documents which purport to authorize the officer to take custody of the student.

Under no circumstances should a student ever be released to a private detective or "special police officer" who is not an officer of a political subdivision of the State of Nebraska or an officer of some agency of the federal government.

#### Official Investigations (Questioning)

Unless a student is placed under arrest and the proper affidavit and release are signed, a peace officer or other law enforcement officer may not remove a child from a school building for questioning while such child is properly in attendance at the school unless permission of the child's parent, guardian or custodian is obtained. Questioning or interview of students on the school premises should only take place pursuant to the following guidelines:

1. If an interview of a student is requested during school hours concerning an ongoing investigation of a crime not related to the school setting, questioning should not take place until the parent, custodian, or guardian of the student has been contacted and permission is given for such interview. Unless a parent specifically requests the principal or other school agent to be present during the interview, such presence is not necessary. An attempt should be made to document the parent's consent either by obtaining such consent in writing or by confirming a consent given over the telephone by a letter.
2. If a representation is made by an investigator that an interview is necessary to collect information concerning an allegation of abuse or neglect, as defined in Neb. Rev. Stat. 28-710 (3), or an offense involving a family relation and it is clear that the obtaining of a parent's consent would be impossible or counter-productive, the principal may allow the interview on school premises. In these situations, the principal or his/her agent should be present during the interview to insure that the interview relates only to those matters specified by the law enforcement official.
3. If the investigation and the request for an interview relate to an incident which took place on school grounds and/or during school hours, it is not necessary to obtain the consent of the parents for an interview. In these situations the principal or his/her agent should be present during the interview to ensure that the matters inquired into relate only to the incident which took place on the school property or something which is directly related thereto.

Legal Reference: Neb. Rev. Stat. § 79-294

Date of Adoption: June 9, 2008

Reviewed: October 8, 2012

**AR-5413--Ex. A**

**Affidavit and Release to Remove Student**

**Date:** \_\_\_\_\_

The undersigned hereby states and affirms to the Arlington 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 Arlington 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 Arlington 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--Ex. B  
Affidavit to Interview or Question Student**

**Date:** \_\_\_\_\_

The undersigned requests the right to interview or question \_\_\_\_\_, a student of the Arlington Public Schools, and hereby states and affirms to the Arlington 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)