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SCHOOL LAW GROUP

E-NOTE

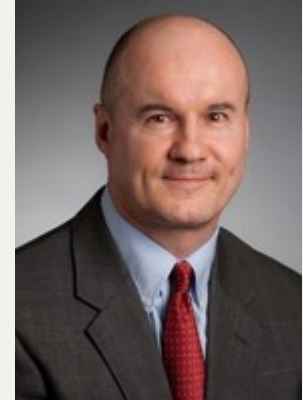
NEW PARENT NOTICE REQUIREMENTS PRIOR TO POLICE OR SECURITY PERSONNEL DETAINING AND QUESTIONING STUDENTS AT SCHOOL

The School Code has been amended to require notice, or attempted notice, by police or school security, to a parent, along with reasonable efforts to ensure the parent is present prior to any police or school security personnel detaining and questioning a student who is under 18 at school during regular school hours. 105 ILCS 5/10-22.85 (new section)

The complete amendment is available at:

[Public Act 101-0478](#)

A detailed summary of the amendment is included hereafter.



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PARENT NOTICE/PRESENCE BEFORE DETAINING AND QUESTIONING OF STUDENTS

New section 5/10-22.85 of the Illinois School Code imposes requirements regarding parental notice and presence during any detention and questioning of a student during school. The police, school resource officers and “other school security personnel” are subject to these requirements. The questioning of students by police on school grounds, unless there is a warrant, is generally a process that is within the discretion of school authorities, i.e. the school determines, by practice or policy, how and when to include police in investigations involving students at school. In addition, the reciprocal reporting agreement and information-sharing between schools and the local police generally provides for certain notifications by the school and police to one another regarding students implicated in criminal behaviors. This amendment does not impact police authority to make a lawful arrest on school grounds.

Under this new section 5/10-22.85 of the School Code, relative to police questioning of a student the notice and parent presence requirements ultimately fall on the police. Relative to school security and resource officers, the school is required to provide this notice to parents or require parents to be present regarding an incident being investigated by the police.

Parent Notice and Presence Requirements

Prior to the detention and questioning of any student under 18 years old, on school grounds, during school hours, all of the following procedures must be followed:

1. Notice or attempted notice to the student’s parent/guardian must be made.
2. The time & manner of the notice/attempted notice must be documented

3. Make reasonable efforts to ensure that the student’s parent/guardian is present before any such questioning.

a. If a parent/guardian is not present, ensure that a mental health professional is present during the questioning (e.g. social worker, counselor, nurse, psychologist).

4. If “practicable” (language from the statute), make reasonable efforts to ensure that a police officer, school security or resource officer who is trained in promoting “safe interactions and communications with youth” (language from the statute) is present during the questioning.

Requirements Do Not Apply If Urgent and Immediate Action Is Necessary

1. Prevent bodily harm or injury to the student or any other person.
2. Apprehend an armed or fleeing suspect.
3. Prevent the destruction of evidence.
4. Address an emergency or other dangerous situation.

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