

# BALTIMORE CITY PUBLIC SCHOOLS

## GENERAL ORDER 10-25 SECTION G-2

### CUSTODIAL INTERROGATIONS AND MIRANDA WARNINGS Revisions Approved: September 27, 2022

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This General Order contains the following numbered sections:

- I. Directive
- II. Purpose
- III. Definitions
- IV. General Guidance Regarding *Miranda* Warnings
- V. Additional Procedures and Safeguards for Interrogating Children
- VI. Questioning Students on School Premises
- VII. Voluntariness of Child Confessions
- VIII. Importance of Following Guidelines
- IX. Effective Date

#### **I. DIRECTIVE**

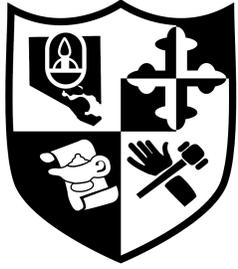
It is the policy of the Baltimore City School Police Force (“BCSPF”) that all officers must preserve due process rights of suspects and guard against any charges of police coercion or intimidation. Field interviews of persons and custodial interrogations of suspects, and the statements and confessions that are elicited, are vitally important in the preparation of charges for criminal violations and any subsequent prosecution of criminal offenses. However, officers should be aware that statements and confessions must be given freely, voluntarily, without coercion, and with due consideration to best ensure admissibility into evidence during a criminal proceeding, as it is well established that a criminal suspect has a constitutional right to remain silent and a right to counsel before a police officer can interrogate a criminal suspect in custody.

#### **II. PURPOSE**

The purpose of this directive is to provide officers with legally sound procedures for conducting interviews and custodial interrogations in compliance with all applicable Constitutional and legal requirements, including those additional protections for custodial interrogation of children.

#### **III. DEFINITIONS**

- A. **Custodial Interrogation** – exists when questioning is initiated with a suspect who has



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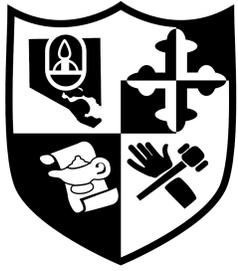
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been placed under arrest or who has otherwise been deprived of their freedom of action by the authorities in any significant way.

- B. **Child** – all City Schools students of any age as well as other juveniles not enrolled in City Schools.
- C. **Deprived of Freedom of Action** – can include, but is not limited to, such police actions as not allowing a person to leave the presence of the officer(s) or the immediate area of a field interview.
- D. **Field Interview** – is a general on-the-scene questioning of a person other than a suspect about a crime or incident; or a general questioning of a witness in the fact-finding process. An interview may become an interrogation if the officer begins to consider the person a suspect and asks incriminating questions or if the individual is deprived freedom of action.
- E. **Interrogation** – means direct questioning of a suspect about a crime or suspected crime, as well as any words, statements, or actions by the officers that the officers should know are reasonably likely to elicit an incriminating response from the suspect.
- F. **Parent/guardian** – The biological or adoptive parent; a guardian or custodian, including a person or agency appointed by the court to have charge of the affairs of the student and granted parental rights and privileges; a person acting as the parent of a student including a grandparent, stepparent, or other relative with whom the child lives, or an individual who is legally responsible for the child's welfare; a foster parent with whom the student lives, if the foster parent has been granted limited guardianship for educational decision-making purposes by the court that has placed the child in foster care; or a parent surrogate who has been appointed in accordance with federal and state regulations. Parent/guardian does not include an employee of a public agency responsible for the education or care of the child, unless the employee has individually been appointed as a guardian or custodian.

#### IV. GENERAL GUIDANCE REGARDING *MIRANDA* WARNINGS

These rules apply in all circumstances. In addition, there are specific additional considerations



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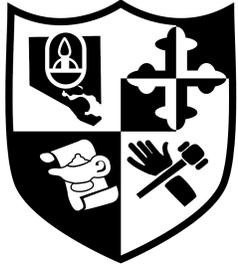
and safeguards for children, as indicated below.

#### A. Custodial Statements and Confessions

1. *Miranda* (*Miranda v. Arizona*, 384 U.S. 436 (1966)) warnings are required and shall be administered prior to “custodial interrogation” as defined in this General Order.
2. The following represent examples of situations that are not “custodial interrogations” and do not require issuance of *Miranda* warnings:
  - a. Investigatory stop and frisk;
  - b. Field interviews;
  - c. Questioning during a traffic stop;
  - d. During routine questioning at the scene of an incident or crime of a person not considered a suspect when the questions are not intended to elicit incriminating responses;
  - e. When a person who is not considered a suspect of a crime voluntarily makes an appearance at a police facility; and
  - f. When information or statements are made spontaneously, voluntarily, and without prompting by the police. (Note: follow-up questions that exceed simple requests for clarification of initial statements may require *Miranda* warnings.)

#### B. Administering *Miranda* Warnings

1. Miranda warnings **shall be read by officers from the card** (10-25 Annex B) containing this information to all persons subjected to custodial interrogation. Freelancing, recitation from memory, or paraphrasing the warning is prohibited as it precludes officers from testifying in court as to the precise wording used.
2. Before the “interrogation” of an individual who is in custody or who is in any way being deprived of their freedom of movement and action, the person must be expressly warned of their Constitutional rights in clear and unequivocal words as follows:
  - a. **You have the right to remain silent.**
  - b. **If you choose not to remain silent, anything you say can and will be used**



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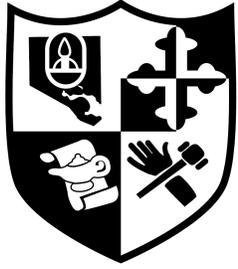
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- against you in a court of law.
- c. **You have the right to consult an attorney before any questioning and you have a right to have an attorney present with you during any questioning.**
  - d. **If you cannot afford an attorney, one will be provided to you.**
  - e. **You have the right to remain silent and the right to consult with an attorney at any time during the questioning.**
3. These warnings must be stated orally by the police officer and not merely read by the person to be questioned.
  4. Officers shall ensure that suspects understand their right to remain silent and their right to an attorney. Suspects may be interrogated only when they have knowingly, voluntarily, and intelligently waived their rights. Threats, false promises, or coercion to induce suspect statements is prohibited.
  5. After all the warnings have been orally recited, the person to be questioned will be asked:
    - a. **Do you understand each of these rights?**
    - b. **Do you wish to answer questions at this time?**
  6. An express statement by the person to be questioned that they understand the meaning of what has been said and that they wish to answer questions without having an attorney present is absolutely required.
  7. Waivers of any *Miranda* rights must be performed affirmatively.
  8. Oral waivers may be sufficient, but written waivers, particularly in felony charges, are preferred and should be obtained whenever possible using the Waiver of Rights Form (0067).
  9. Officers arresting deaf suspects, non-English speaking suspects, or English learner suspects shall notify their immediate supervisor and make arrangements to procure the assistance of an interpreter in accordance with BCSPF policy and state and federal law, and the *Miranda* warnings must be given via an interpreter and affirmatively waived prior to any interrogation.
  10. If the person to be questioned requests advice as to whether or not they should decide to answer questions, a police officer is not permitted to advise the person.



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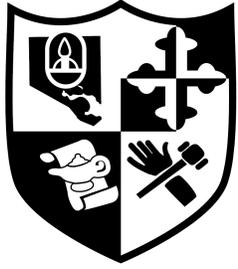
11. Any circumstances of lengthy incommunicado custody, deception, promises or suggestions of benefits, or other forms of psychological pressure will invalidate the waiver of the person's *Miranda* rights and may render any statements made by the person inadmissible in court.

#### **C. Invoking the Right to Silence**

1. When a suspect invokes their right to remain silent, all interrogation shall terminate immediately.
2. Officers may interrogate a suspect who has previously invoked their right to silence, if, after the passage of time, the suspect initiates communication with officers. However, prior to questioning, *Miranda* warnings shall be re-administered, and a waiver shall be obtained (and for children, the additional procedures set forth below must be strictly followed and re-administered, including those regarding parent/attorney notification and consultation).

#### **D. Invoking the Right to Counsel**

1. If a suspect waives their right to counsel, a waiver shall be obtained prior to questioning. When a suspect makes reference to counsel, but their intentions are unclear, officers may question the suspect further to clarify their intentions but may only further question the subject regarding their reference to counsel. The interrogation shall immediately end if the intentions are unclear and/or if the suspect clearly expresses their desire to have an attorney.
2. When a suspect invokes their right to counsel, all interrogation shall cease immediately. The suspect may not again be interrogated during that same interrogation session about the crime for which they are charged, other crimes, or by other officers (from other agencies) unless:
  - a. The suspect's attorney is present at the questioning; or
  - b. The suspect initiates new contact with the police. In this case, *Miranda* warnings must again be administered, and a waiver must be obtained before any questioning may take place (and for children, the additional procedures set forth below must be



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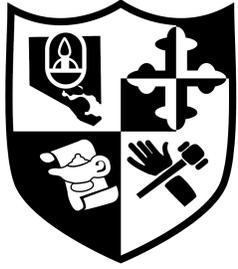
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strictly followed and re-administered, including those regarding parent/attorney notification and consultation). Officers shall also document and, if possible, obtain written verification that the suspect initiated the communication.

3. Officers should reasonably cooperate with efforts by counsel to contact or meet with suspects in custody.
4. The person to be questioned should be informed if at any time an attorney appears (or a parent/guardian in cases involving a child) and requests to see them, regardless of whether rights may have been waived. In addition, the person to be questioned shall have the opportunity to have the attorney (or parent/guardian in cases involving children) present during any subsequent questioning, if the person in custody requests the presence of an attorney.

#### **E. Documenting the Statements and Confessions**

1. The circumstances surrounding the conduct of interrogations and recording of confessions shall be fully documented. This includes but is not necessarily limited to:
  - a. Location, date, time of day, and duration of interrogation;
  - b. The identities of the offenders or others present;
  - c. *Miranda* warnings given, suspects responses, and waivers provided, if any; and
  - d. The nature and duration of breaks in questioning provided the suspect for food, drink, use of lavatories, or other purposes.
2. The advice of rights must be audio and video recorded, unless impracticable. Officers must document in the investigative file the circumstances that made recording impractical. In addition, investigative officers should use the agency's video and audio taping capabilities for the purposes of recording statements and confessions in a manner consistent with department policy, state, and federal law.
3. The lead investigative officer may decide the procedures that should be used to record the advice of rights and any subsequent interrogation, consistent with department policy, state, and federal law. Audio and visual recordings designated as evidence shall be handled in the following manner:



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- a. Original recordings shall be duplicated and each copy stored separately.
- b. The tab on the tape or storage device housing of both the original and the duplicate copies shall be removed to preclude the possibility of erasure or tampering.
- c. Recordings shall be stored in a secure location under controlled access as designated by the officer-in-charge of criminal investigations.
- d. All recordings shall be inventoried on a routine basis.

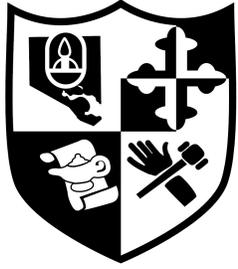
#### V. ADDITIONAL PROCEDURES AND SAFEGUARDS FOR INTERROGATING CHILDREN

##### A. Constitutional Rights

1. BCSPF officers must recognize that children interviewed or interrogated are afforded the same Fifth and Sixth Amendment protections as adults. Officers should take reasonable steps to ensure that a child's Constitutional rights are protected while a child is in custody and/or during an interrogation. This includes their right to remain silent and their right to counsel. The physical size of the child, the seriousness of the offense, or whether or not the child is considered a suspect does not change the legal requirements during interviews and interrogations.
2. Officers should recognize that children are generally more impressionable than adults and may be more susceptible to intimidation caused by the situation and/or presence of police officers. Children may have difficulty in anticipating the consequences of their actions, and they may be more susceptible to immediate rewards and peer influence. When determining the voluntariness of statements made by children, courts will examine all circumstances surrounding the encounter between the officer and the child.

##### B. Notifying the Child's Parent/Guardian

1. Whenever a law enforcement officer takes a child into custody, the officer shall immediately notify the child's parent/guardian in a manner reasonably calculated to give actual notice, pursuant to Maryland Code Annotated, Courts and Judicial Proceedings § 3-814. Officers must document all attempts and follow-up attempts to



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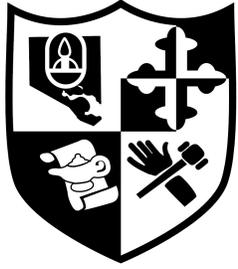
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- contact the parent/guardian in their investigative records.
2. When a parent/guardian of a child is contacted, the parent/guardian shall be notified of the following:
    - a. That the child is in custody;
    - b. The child's location (including any future destination if the child is to be transported);
    - c. The reason the child is being taken into custody;
    - d. That the child will be interrogated; and
    - e. Instructions on how the parent/guardian can make immediate in-person contact with the child.
  3. Officers must maintain a written record of the notification, or attempted notification of a parent/guardian, in their investigative records. The record of notification must include:
    - a. A signed statement by the duly authorized BCSPF officer that an attempt to notify a parent/guardian was made;
    - b. The name of the person sought to be notified;
    - c. The method of attempted notification; and
    - d. The name of the attorney contacted and the location in which the attorney provided the consultation (as discussed further below).

#### **C. Child's Right to Consultation with an Attorney**

1. Law enforcement officers may NOT interrogate a child until they have provided notice to the parent/guardian as detailed in the previous section, AND the child has consulted with an attorney who is either retained by the parent/guardian of the child or provided by the Office of the Public Defender. Md. Code Ann., Courts and Judicial Proceedings § 3-8A14.2.
  - a. The only exception to this requirement is if the officer reasonably believes that the information sought is necessary to protect against a threat to public safety.



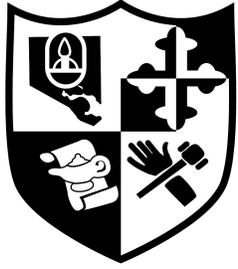
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- b. In these limited situations, the questions posed to the child by the officer must be limited to those questions reasonably necessary to obtain the information necessary to protect against the threat to public safety.
2. The requirement that the child consult with an attorney prior to interrogation cannot be waived by the child or their parent/guardian. This requirement also applies regardless of whether the child is being charged as an adult.
3. Consultations with attorneys may be in person or by telephone or video conference; however, the child must be provided with a private, confidential space to speak with their attorney.
4. If an attorney is not available for consultation, the law enforcement officer must with all reasonable speed either: (1) release the child to the parent/guardian or any other person designated by the court, upon their written promise to bring the child before the court and any security the court may reasonably require, or (2) deliver the child to the court or place of detention or shelter designated by the court. Md. Code Ann., Courts and Judicial Proceedings § 3-8A14.
5. If a child or their parent/guardian requests the presence of an attorney at any time after the initial consultation, interrogating officers shall discontinue the interrogation and shall afford the child the same rights as those afforded to adults.
  - a. When requested, the child will be afforded the opportunity to consult their parent/guardian or attorney, in confidence and outside the presence or hearing of a law enforcement officer.
  - b. A child's parent/guardian does not have to be present for officers to interrogate a child in custody if an attorney is present; however, discretion should be used when weighing the severity of the offense and whether or not to have a parent/guardian present. If a child requests a parent/guardian's presence, questioning should be delayed until the parent/guardian arrives and the parent/guardian(s) will be allowed to be present during the interrogation. However, the child must consult with an attorney prior to interrogation even if their parent/guardian is present.
6. The attorney will communicate and coordinate with the parent/guardian to the extent practicable. The parent/guardian should be present, if possible, when the child is read



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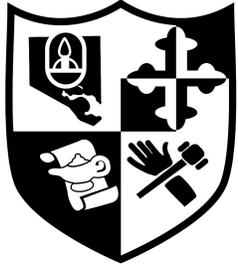
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their rights and at any custodial interrogation so the child may confer with their parent/guardian for guidance in addition to their attorney.

- a. If there is a language barrier for the parent/guardian, the officer shall request a Qualified Bilingual Member to assist in providing language access. If a Qualified Bilingual Member is unavailable, the officer can request an in-person interpreter through Communications or can use the Language Line when the need is immediate. *See* General Order 18-6 (Limited English Language Proficiency). A child shall not provide language interpretation between the parent/guardian and the officer.
- b. A parent/guardian will not be permitted to be present or observe an interrogation when the parent/legal guardian is either: (i) a complainant in the offense under investigation; (ii) suspected of being an accomplice in the offense under investigation; or (iii) expresses strong hostility towards the child.
- c. In the event that the parent/guardian of a child states that they would like to be present during the interrogation, but the child states that they do not want the parent/guardian present, the interrogation may proceed with only an attorney present.
- d. If a parent/guardian refuses to respond to the facility where the interrogation will take place, or refuses to be with the child during the interrogation, the interrogation may commence as long as the child has an attorney present to help the child understand their rights. If the child does not appear to understand their rights after consultation with an attorney, the child may be transported to a Court Commissioner's Office to be re-advised of their rights in the presence of a District Court Commissioner.

#### **D. Explanation of Procedure and Advisement of Rights**

1. Prior to any interrogation of a child, a BCSPC officer should explain the department and juvenile justice system procedures to the child. This includes but is not limited to procedures regarding custody, interrogation, detention, and release.
2. After the child consults with an attorney and notifies the child's parent/guardian, as detailed in the prior sections, the officer shall provide the child in custody, the attorney,



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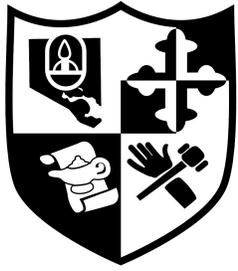
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and the parent/guardian, if present, with a copy of the Explanation and Waiver of Rights for Youth, Form 68 (Appendix A), and go through the form, point by point, with the child and their attorney and/or the parent/guardian that is present for the warnings. If the Court of Appeals adopts rules concerning age-appropriate language to be used to advise a child who is taken into custody of their rights, those will be utilized in lieu of Form 68 (Appendix A).

- a. Officers should verify that the child and parent/guardian can read and write before providing a copy of Form 68. Officers should work with the consulting attorney to provide language access when necessary.
- b. The child and their attorney shall be afforded an adequate opportunity to review the form and consult, in confidence and outside the presence or the hearing of any law enforcement officer, at any point prior to, or during, the advisement of rights.
- c. The officer shall give the child in custody the opportunity to read the form to themselves.
- d. The officer shall then read the entire form (numbers 1-7) aloud to the child in custody.
- e. After reading each right to the child, the officer shall ask the child to explain, in their own words, what that right means.
- f. If the child answers “yes” to question 6 on Form 68 (that they do want a lawyer to help them decide if they want to talk), then the officer must stop and allow the child to consult with their attorney.
- g. If the child answers “no” to question 7 on Form 68 (that they do not want to talk to the officer), then the officer must stop and not question the child.
- h. If the child states that they want to proceed without a lawyer and that they are willing to speak to the officer, the officer must ask if the child is willing to sign the waiver statement. The officer must explain that signing the statement means that the child is voluntarily agreeing to talk to the police without having a lawyer present. The attorney providing the consultation must be present while the child is signing the waiver statement.
- i. If the child refuses to sign, they may still waive their rights orally after consulting with an attorney. To determine whether a child who refuses to sign the form intends to waive their rights, the officer shall ask the child a “yes” or “no” question, such



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as “Do you want to have a lawyer help you decide if you want to talk to me?” or “Do you want to talk to me?” Where the child does not answer with a clear “yes” or “no,” the officer shall ask again until the officer receives a clear response. Refusal to sign, as well as the decision to provide an oral waiver, must be documented on the form.

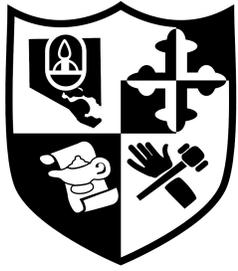
- j. Particular care must be taken to ensure that the child fully comprehends their *Miranda* rights. Such factors to be considered, but not limited, the child’s age, mental/emotional state, and maturity level.

#### **E. Recording Interrogations**

1. Unless it is impossible, impracticable, or unsafe to do so, any BCSPF officers conducting any custodial interrogation or interrogation of a child must make both video and audio recording of the interrogation in its entirety, including the advisement of rights and any breaks. The interrogation may also be recorded using body-worn cameras consistent with departmental policies. In the event that circumstances do not allow for video recording, audio recording will be conducted. This includes misdemeanors as well as felonies.
2. Children must be informed that the interrogation is being recorded.

#### **F. Additional Interrogation Safeguards for Children**

1. No more than two officers should be present during an interrogation of a child.
2. Officers shall not be armed during the interrogation.
3. Interrogations should be of reasonable duration, with regular breaks for use of facilities or consultation with counsel or a parent/guardian.
4. The duration of the interrogation session shall generally be limited to one (1) hour.
5. After a 15-minute break, a second one-hour session may be attempted depending upon the severity of the offense committed and/or the significance of the investigation. The time limits may be extended if the child wishes to continue to talk to interrogators.
6. The investigator should obtain supervisory approval for extending any child interrogation beyond one (1) hour and note the reason for the extension in the investigative file, along with the supervisor who approved the extension.



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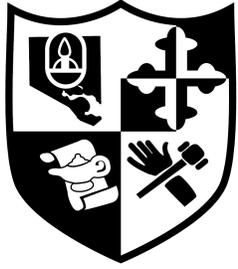
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7. The investigator shall maintain all original forms in the case folder.
8. If it is observable that the child is exhausted, the interrogation shall not proceed.
9. The investigator shall immediately stop an interview if the child expresses a desire to exercise their Constitutional rights, including the right to remain silent.
10. The officer shall not give legal advice or attempt to answer any legal questions. This does not conflict with the duty to advise persons in custody of their Constitutional rights.
11. If a child or their parent/guardian requests the presence of an attorney, interrogating officers shall discontinue the interrogation and shall afford the child the same rights as those afforded adults.
12. The following basic amenities must be available to the child prior to commencing an interrogation and throughout an interrogation:
  - a. Reasonable access to drinking water or other beverage;
  - b. Food if the child has not eaten within four hours;
  - c. Reasonable access to toilets and washing facilities;
  - d. Privacy during any requested visits with parent/legal guardian and lawyer; and
  - e. Reasonable access to a phone to contact their lawyer, if requested.
13. Children can often misunderstand questions. Officers should tailor their questions to their knowledge or reasonable assessment of the following characteristics: the child's age, maturity, level of education, apparent mental ability, and other information known to the officer at the time of the interrogation.
14. The use of any form of deception during the Interrogation of any child is prohibited.
15. The following guidelines should be followed as appropriate in consideration of those characteristics:
  - a. Avoid police or legal jargon;
  - b. Use names and places instead of pronouns;
  - c. Use short, simple words and sentences;
  - d. Avoid questions with multiple parts;
  - e. Avoid "yes/no" questions, instead use targeted, open-ended questions that elicit a narrative response (e.g., "What did you do last night?");



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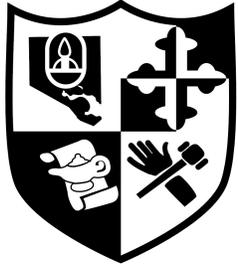
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- f. Avoid leading questions. Instead, use questions beginning with “who,” “what,” “where,” “when,” and “how” to get more information about specific parts of the child’s story (e.g., “Where was the victim standing?”);
- g. Avoid offering the child a limited set of options (e.g., “Was the victim standing by the couch or by the door?”);
- h. Connect time events to concrete events in the child’s life (e.g., “Did this happen when you were on summer break or when you were going to school?”);
- i. Avoid completing the child’s sentences;
- j. Avoid jumping ahead in the conversation; and
- k. Double-check responses by asking questions that elicit the information in a different way.

## VI. QUESTIONING STUDENTS ON SCHOOL PREMISES

- A. Police investigations involving the questioning of students may not be permitted on school premises unless it is in connection with:
  - 1. A crime committed on the school premises, or
  - 2. An investigation which, if not immediately permitted, would compromise the success of that investigation or endanger the lives or safety of the students or other persons.
- B. A school official should be present throughout the questioning of a student on school premises.
- C. Officers may not remove a student from school for the purpose of investigative questioning without the consent of the parent/guardian unless an arrest has been made. The only exception to this rule is if the student is a suspected victim of child abuse or neglect and the local department of social services has guardianship of the child or a court order to remove the child. In these cases, the officer must ensure prompt notification of a student’s removal to the parent/guardian. COMAR 13A.08.01.13
- D. Special additional considerations are made for cases involving suspected child neglect or suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of



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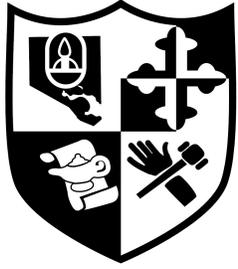
Maryland and in alignment with COMAR 13A.08.01.13.

1. City Schools shall permit personnel from a local department of social services or a police officer to question a student on school premises during the school day for child abuse and neglect cases.
2. The Principal shall determine, after consultation with the individual from the local department of social services or the police officer, whether a school official shall be present during the questioning of a student.
3. Records and reports concerning child abuse or neglect are confidential, and unauthorized disclosure is a criminal offense under Article 88A, § 6(b), Annotated Code of Maryland.

- E. Whenever investigative questioning of students is permitted on the premises, the Principal shall promptly advise the parent/guardian and the Chief of Schools of the nature of the investigation and such other details as may be required. School officials are not required to notify the parent/guardian of investigations on school premises involving suspected child neglect and suspected child abuse under Family Law Article, Title 5, Subtitle 7, Annotated Code of Maryland.

**VII. VOLUNTARINESS OF THE CHILD'S CONFESSION**

- A. All testimonial statements and/or information provided by individuals to the police, in whatever manner, must be voluntary. Generally, information provided by individuals in non-custodial settings will be considered voluntary due to the consensual nature of the interaction. Information provided by individuals as a result of coercion or during unconstitutional seizures could be considered involuntarily given and could be suppressed from use in any future trial, in addition to the potential for civil liability.
- B. In determining whether a confession is voluntary, officers must realize that the courts look to the totality of the circumstances, which includes a review of the following factors related to the child's confession:
1. Age, intelligence, educational background, including whether a child is in special



# BALTIMORE CITY PUBLIC SCHOOLS

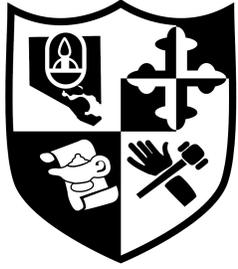
## GENERAL ORDER 10-25 SECTION G-2

### CUSTODIAL INTERROGATIONS AND MIRANDA WARNINGS Revisions Approved: September 27, 2022

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education or has a learning or developmental disability. In order to ascertain this information, the BCSPF officer shall ask the child and the child's parent/guardian, if present, the following questions:

- a. Is the child enrolled in school?
  - b. What grade is the child in? (Officers should consider whether the grade is appropriate for the age of the child or if the child is behind in school)
  - c. Has the child ever received special education services? Has the child ever had an Individualized Education Program (IEP) in school?
  - d. Has the child ever been diagnosed with a disability, including a learning disability? (If so, ask for more information)
2. Mental capacity, maturity level, and physical condition
  3. Prior experience in the criminal justice system
  4. Whether the child is suffering from any injury or pain at the time the statement is given
  5. The duration of the questioning
  6. Time of day
  7. Whether the child is tired and is desirous of sleep
  8. Length of confinement
  9. Whether *Miranda* or police caution warnings were given, when, and whether they understood them
  10. Whether the child consulted with an attorney
  11. Whether the room size was of sufficient size and supplied with appropriate furniture
  12. Whether the child was cuffed or threatened
  13. Whether the child was refused the use of a bathroom, food, or drink
  14. Whether there was any promise of leniency
  15. Whether the child understood the interrogation process
  16. Whether a BCSPF officer was present during the interview
  17. Whether the parent/guardian was notified
  18. Whether the child asked for a parent/guardian to be present
  19. Whether the police prevented a concerned adult from speaking with the child, and
  20. The child's familiarity with English



# BALTIMORE CITY PUBLIC SCHOOLS

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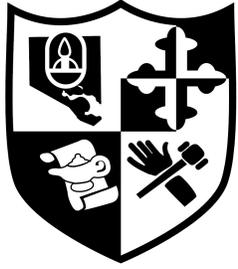
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- B. A BCSPF officer who observes any signs that the child is experiencing a behavioral health disability, an intellectual disability, or is in crisis shall ask information about the child's mental ability, including learning and/or emotional disabilities, as a way to assess how to appropriately proceed with the interrogation.
- C. If a BCSPF officer encounters a child of any age displaying signs that their ability to understand is impaired by a behavioral health or intellectual disability (including the use of alcohol or other drug use, suicidal ideation, mental illness, or a developmental disability), the officer shall stop the interrogation immediately. BCSPF officers shall document the reason for terminating the interrogation, and they shall consult with their supervisor in order to determine whether the interrogation may resume at a later time.
- D. The BCSPF officer should create an interrogation plan, develop strategies for establishing rapport, develop age-appropriate questions, and utilize strategies that take into account the child's age, education, and prior experience with the justice system.

### VIII. IMPORTANCE OF FOLLOWING GUIDELINES

- A. All officers and members of BCSPF MUST follow the policies and procedures outlined above with a focus on properly providing notice to the parent/guardian and ensuring that an attorney is present to consult with the child before an interrogation begins. Children cannot waive their *Miranda* rights until after consultation with an attorney, and it is important that officers honor children's Constitutional rights.
- B. There is a rebuttable presumption that any statement made by a child during a custodial interrogation is inadmissible in a delinquency proceeding or a criminal prosecution against that child if a law enforcement officer willfully failed to comply with the requirements outlined above. The only way the state can overcome this presumption is by showing, by clear and convincing evidence, that the statement was made knowingly, intelligently, and voluntarily. Md. Code Ann., Courts and Judicial Proceedings, § 3-8A14.2

### IX. EFFECTIVE DATE



**BALTIMORE CITY**  
**PUBLIC SCHOOLS**

**GENERAL ORDER 10-25**  
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**CUSTODIAL INTERROGATIONS AND MIRANDA WARNINGS**  
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This Order shall be effective on the date of publication.

I certify that I have read and fully understand this Order.

**Signature** \_\_\_\_\_ **Date** \_\_\_\_\_