



SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

*A Joint Powers Authority
serving school and college
districts throughout the
state.*

5350 Skylane Boulevard
Santa Rosa, CA 95403

Tel: (707) 524-2690
Fax: (707) 578-0517
santarosa@sclscal.org
www.sclscal.org

General Counsel
Carl D. Corbin

Attorneys
Monica D. Batanero
Jennifer Henry
Nancy L. Klein
Damara L. Moore
Jennifer E. Nix
Steven P. Reiner
Kaitlyn A. Schwendeman
Loren W. Soukup
Erin E. Stagg

Of Counsel
Ellie R. Austin
Robert J. Henry
Patrick C. Wilson
Frank Zotter, Jr.

LEGAL UPDATE

October 13, 2020

To: Superintendents, Member School Districts (K-12)
From: Carl D. Corbin, General Counsel *CDC*
Subject: Youth Under Eighteen Entitled to Legal Consultation Prior to Custodial Interrogation by Law Enforcement Officer
Memo No. 62-2020

Effective January 1, 2021, Senate Bill (“SB”) 203,¹ will require that prior to custodial interrogation by a law enforcement officer (including a school resource officer) and prior to a waiver of any Miranda² rights, a student under eighteen years of age must be allowed to consult with legal counsel (which can be in person, by telephone, or by video conference) and the consultation may not be waived.

Failure to comply with this legal requirement may affect the admissibility of the student’s statements at a criminal hearing and affect the credibility of the law enforcement officer pursuant to Evidence Code section 780.

There is an exception if both:

1. The officer who questioned the youth reasonably believed the information the officer sought was necessary to protect life or property from an imminent threat; and
2. The officer’s questions were limited to those questions that were reasonably necessary to obtain that information.

This law does not apply to school administrators questioning a student and using the information for school related disciplinary purposes such as expulsion.

¹ Please see the following link for SB 203:
http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB203.

² *Miranda v. Arizona* (1966) 384 U.S. 436.



This law may apply if a school administrator contacts a law enforcement officer (including a school resource officer) and the student is questioned at school by the officer. However, any failure to have an attorney consultation with the student will not affect use of the information obtained for school discipline purposes.

SB 203 expands upon a previous law, SB 395, which effective January 1, 2018, extended the right to legal consultation to students under sixteen years of age.

Please contact our office with questions regarding this Legal Update or any other legal matter.

The information in this Legal Update is provided as a summary of law and is not intended as legal advice. Application of the law may vary depending on the particular facts and circumstances at issue. We, therefore, recommend that you consult legal counsel to advise you on how the law applies to your specific situation.

© 2020 School and College Legal Services of California

All rights reserved. However, SCLS grants permission to any current SCLS client to use, reproduce, and distribute this Legal Update in its entirety for the client's own non-commercial purposes.