



# SCHOOL & COLLEGE LEGAL SERVICES OF CALIFORNIA

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5350 Skylane Boulevard  
Santa Rosa, CA 95403

Tel: (707) 524-2690  
Fax: (707) 578-0517  
santarosa@scscal.org  
www.scscal.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/Presidents/Chancellors, Member Community College Districts

**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. 32-2020(CC)

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Effective January 1, 2021, Senate Bill (“SB”) 203,<sup>1</sup> will require that prior to custodial interrogation by a law enforcement officer (including a school resource officer) and prior to a waiver of any Miranda<sup>2</sup> 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.

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<sup>1</sup> Please see the following link for SB 203:

[http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200SB203](http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200SB203).

<sup>2</sup> *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.*

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