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**From:** Weeks, Pamela [<mailto:pweeks@pa.gov>]

**Sent:** Monday, May 14, 2012 9:26 AM

**To:** Michelle L. Elliott

**Subject:** FW: State Board of Education Final-Omitted Regulation #6-325 (IRRC #2928): "Safe Schools"

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Ms. Elliott-

One of my duties at the Pennsylvania Emergency Management Agency (PEMA) is to be the Safe Schools Program Manager. PEMA is responsible under Title 35 to provide guidance to schools in Pennsylvania on emergency planning. To that end, we worked with a whole host of other entities, such as the Departments of Health and Education, Commission on Crime and Delinquency, State Police, Center for Safe Schools, PA Association of School Business Officials, Office of the Attorney General, and a number of first responders and school districts to create the "All Hazards School Safety Planning Toolkit".

As the lead agency for providing guidance to schools on emergency planning, PEMA (in conjunction with several of our county emergency management agencies) reviewed the Final-Omitted Regulation #6-325 (IRRC #2928): "Safe Schools" as developed by a committee overseen by the Board of Education and would like to provide the following input on it. We primarily want to comment on the areas pertaining to emergency preparedness which is where our responsibilities are centered. Some of the materials in the regulation were taken from our toolkit, but the meaning was changed adding unnecessary burdens to the school or asking for materials that would be long out of date prior to their use. Much of the confusion could have been avoided if our agency was consulted during the development of the regulation. Please see the recommended changes below that we feel make sense.

#### **§ 10.8. Emergency and nonemergency response and preparedness**

(a) Each school district, in cooperation with the local emergency management agency and the Pennsylvania Emergency Management Agency, **annually (delete annually)** shall develop and implement a comprehensive disaster response and emergency preparedness plan, as required by 35 Pa.C.S. § 7701(g) (relating to plans). **The plan shall be reviewed annually and modified as necessary.**

(b) A school district's comprehensive disaster response and emergency preparedness plan shall be consistent with the guidelines developed by the Pennsylvania Emergency Management Agency and other applicable state requirements, as required by 35 Pa.C.S. § 7701(g).

(c) In developing a comprehensive disaster response and emergency preparedness plan, a school district shall consider the framework presented in the National Incident Management System.

(d) A school district shall provide the emergency management agency of every county of which the school district is a part a copy of the district's comprehensive disaster response and emergency preparedness plan, as required by 35 Pa.C.S. § 7701(g).

(e) A school district shall **review the comprehensive disaster response and emergency preparedness plan annually, or after a significant event, with each local police department, local emergency medical services, and each local fire department, as well as other response and recovery partners,** having jurisdiction over geographic territory of which the school district is a part. **a copy of the district's comprehensive disaster and response emergency preparedness plan. (delete)**

(f) In an emergency, a school district shall follow the procedures outlined in its comprehensive disaster response and emergency preparedness plan, adopted pursuant to 35 Pa. C.S. § 7701(g).

(g) School entities shall furnish the following information to local police departments and local fire departments annually, no later than September 30, to assist local police and fire departments in responding to an emergency:

(1) Blueprints or floor plans of the school buildings.

(2) Aerial photo, map or layout of the school campus, adjacent properties and surrounding streets or roads.

(3) Locations of predetermined or prospective command posts.

(4) Current teacher/employee roster.

(5) Current student roster.

(6) Current school yearbook.

(7) School fire-alarm shutoff location and procedures.

(8) School sprinkler system shutoff location and procedures.

(9) Gas/utility line layouts and shutoff valve locations.

(10) Cable/satellite television shutoff location and procedures.

(11) Other information the school entity deems pertinent to assist local police departments in responding to an emergency. (Replace with the following paragraph)

(g) Additionally, in anticipation of the need for the Law Enforcement Authority and other first responders to respond to incidents described herein, the School Entity should have available in their "Go Kit" to bring to the Command Post the following information:

- a. Blueprints or floor plans of the school buildings;
- b. Aerial photo, map or layout of the school campus, adjacent properties and surrounding streets or roads, if available;
- c. Current day teacher/employee roster;
- d. Current day student roster;
- e. School fire-alarm shutoff location and procedures;
- f. School sprinkler system shutoff location and procedures;
- g. Gas/utility line layouts and shutoff valve locations; and
- h. Cable/satellite television shutoff location and procedures.
- i. A copy of the school and/or district All-Hazards Plan.

School districts do not develop plans annually. They review and update them annually. When they are doing their review, it should be done in conjunction with all of the response partners, emergency management, and anyone else who has a response or recovery role in that plan. Because of operational security, we recommend only that the Basic part of the plan (not the annexes) be given to the first responder organizations, if that is necessary at all. The latest information should be brought by the school to the Incident Command Post when an event happens as part of their "Go Kit".

I've also attached a copy of the Memorandum of Understanding which basically needs the same type of changes made to it. In addition, I've included a copy of some pertinent definitions from the National Incident Management System (NIMS). The Office of Safe Schools had rewritten these definitions to be included in the regulation. If they are to be included, they should be kept as they were written by the Federal Emergency Management Agency. Those definitions are the ones that we are training the schools to recognize and use.

We had submitted this information to the Board of Education through the Office of Safe Schools at PA Department of Education once before when the regulations first came up for review. We were told that the changes were too significant to make at that point and perhaps the regulation could be changed later. Once again, this problem could have been avoided if our agency had been consulted during the process, but the larger problem is that there are glaring errors and omissions in the regulation and it should not be finalized as it stands currently. Emergency planning for schools is very time consuming and we do not want them doing unnecessary or erroneous work.

If you have any questions or I can provide further clarification, please do not hesitate to contact me.

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**The National Incident Management System (NIMS):** NIMS is ~~the federal response system which~~ a set of principles that provides a systematic, proactive approach to guide departments and agencies at all levels of government, nongovernmental organizations, and the private sector to work seamlessly to prevent, protect against, respond to, recover from, and mitigate the effects of incidents, regardless of cause, size, location, or complexity, in order to reduce the loss of life and property and harm to the environment. (reference IS-100.b, August 2010, SM page 7)

**The Incident Command System (ICS):** ~~The ICS is a standardized, on-scene, all hazards incident management approach that:~~

- ~~• Allows for the integration of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure.~~
- ~~• Enables a coordinated response among various jurisdictions and functional agencies, both public and private.~~
- ~~• Establishes common processes for planning and managing resources.~~

~~ICS is flexible and can be used for incidents of any type, scope, and complexity. ICS allows its users to adopt an integrated organizational structure to match the complexities and demands of single or multiple incidents. It is used for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations.~~ A standardized on-scene emergency management construct specifically designed to provide for the adoption of an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. ICS is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents. It is used for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations. (reference IS-100.b, August 2010, SM page 5)

**The Incident Command Post (ICP):** ~~The ICP is typically comprised of local and mutual aid responders. It is the physical field location that administers the on-scene incident command and the other major incident management functions are performed. The ICP may be co-located with the incident base or other incident facilities. Typically, the ICP is located at or in the immediate vicinity of the incident site and is the focus for the conduct of direct, on-scene control of tactical operations. Incident planning is also conducted at the ICP; an incident communications center also would normally be established at this location. The ICP may be collocated with the incident base, if the communications requirements can be met. The ICP may perform local Emergency Operations Center-like functions in the context of smaller jurisdictions or less complex incident scenarios.~~ Field location where the primary functions are performed. The ICP may be co-located with the Incident Base or other incident facilities. (reference IS-100.b, August 2010, SM page 5)

**The Emergency Operations Center (EOC):** ~~The EOC is a physical location that is located separately from the on-scene Incident Command Post and supports the on-scene response by providing external coordination and securing of additional resources.~~ The physical location at

which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place. An EOC may be a temporary facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. (reference IS-100.b, August 2010, SM page 3)

**Incident:** An occurrence or event, natural or manmade that requires a response to protect life or property. Incidents can, for example, include major disasters, emergencies, terrorist attacks, terrorist threats, civil unrest, wild land and urban fires, floods, hazardous materials spills, nuclear accidents, aircraft accidents, earthquakes, hurricanes, tornadoes, tropical storms, tsunamis, war-related disasters, public health and medical emergencies, and other occurrences requiring an emergency response.

**Incident Action Plan (IAP):** An oral or written plan containing general objectives reflecting the overall strategy for managing an incident. It may include the identification of operational resources and assignments. It may also include attachments that provide direction and important information for management of the incident during one or more operational periods. (reference IS-100.b, August 2010, SM page 4)

**Incident Command:** ~~Entity~~ The Incident Command System organizational element responsible for overall management of the incident. ~~It consists~~ and consisting of the Incident Commander (either single or unified command structure) and any assigned supporting staff. (reference IS-100.b, August 2010, SM page 4)

**Incident Commander:** ~~The Incident Commander is the~~ individual responsible for all incident response activities, including the development of strategies and tactics and the ordering and the release of resources. The Incident Commander has overall authority and responsibility for conducting incident operations and is responsible for the management of all incident operations at the incident site. ~~When multiple command authorities are involved, the incident may be led by a unified command comprised of officials who have jurisdictional authority or functional responsibility for the incident under an appropriate law, ordinance, or agreement. The unified command provides direct, on-scene control of tactical operations.~~ (reference IS-100.b, August 2010, SM page 4)

**Command Staff:** ~~The Command Staff consists of a Public Information Officer, Safety Officer, Liaison Officer, and other positions. The Command Staff reports directly to the Incident Commander. The General Staff normally consists of an Operations Section Chief, Planning Section Chief, Logistics Section Chief, and Finance/Administration Section Chief. An Intelligence/Investigations Section may be established, if required, to meet response needs.~~ The staff who report directly to the Incident Commander, including the Public Information Officer, Safety Officer, Liaison Officer, and other positions as required. They may have an assistant or assistants, as needed. (reference IS-100.b, August 2010, SM page 2)

**Unified Command:** ~~The Unified command is an important element in multijurisdictional or multiagency incident management. It provides guidelines to enable agencies with different legal, geographic, and functional responsibilities to coordinate, plan, and interact effectively. As a team effort, unified command allows all agencies with jurisdictional authority or functional~~

~~responsibility for the incident to jointly provide management direction to an incident through a common set of incident objectives and strategies and a single Incident Action Plan. Each participating agency maintains its authority, responsibility, and accountability.~~ An Incident Command System application used when more than one agency has incident jurisdiction or when incidents cross political jurisdictions. Agencies work together through the designated members of the UC, often the senior persons from agencies and/or disciplines participating the UC, to establish a common set of objectives and strategies and a single Incident Action Plan. (reference IS-100.b, August 2010, SM page 12).

**Incident Management:** ~~Refers to how incidents are managed across all security activities, including prevention, protection, and response and recovery.~~ The broad spectrum of activities and organizations providing effective and efficient operations, coordination, and support applied at all levels of government, utilizing both governmental and nongovernmental resources to plan for, respond to, and recover from an incident, regardless of cause, size, or complexity. (reference IS-100.b, August 2010, SM page 5).

Model Memorandum of Understanding/Mutual Aid Agreement

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**MEMORANDUM OF UNDERSTANDING  
BY AND BETWEEN**

\_\_\_\_\_  
(Law Enforcement Authority )

and

\_\_\_\_\_  
(School Entity)

\_\_\_\_\_  
(Date)

**I. Joint Statement of Concern**

A. Parties

The following Law Enforcement Authority or Authorities enter into and agree to adhere to the policies and procedures contained in this Memorandum of Understanding (hereinafter “Memorandum”):

\_\_\_\_\_  
\_\_\_\_\_

The following School Entity or Entities enter into and agree to adhere to the policies and procedures contained in this Memorandum:

\_\_\_\_\_  
\_\_\_\_\_

B. The purpose of this Memorandum is to establish procedures to be followed when certain specific incidents - described in Section II below - occur on school property, at any school sponsored activity or on any public conveyance providing transportation to or from a school or school sponsored activity, including but not limited to a school bus.

C. It is further the purpose of this Memorandum to foster a relationship of cooperation and mutual support between the parties hereto as they work together to maintain the

physical security and safety of the School Entity. Thus, the School Entity may disclose personally identifiable information from an educational record of a student to the Law Enforcement Authority if a health or safety emergency exists and knowledge of that information is necessary to protect the health or safety of the student or other individuals. In determining whether a health or safety emergency exists, the School Entity may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the School Entity determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to the Law Enforcement Authority, if knowledge of that information is necessary for the Law Enforcement Authority to protect the health or safety of the student or other individuals. The School Entity must record the articulable and significant threat to the health or safety of a student or other individuals so that it can demonstrate - to parents, students and the Family Policy Compliance Office - what circumstances led it to determine that a health or safety emergency existed and why the disclosure was justified.

#### D. Priorities of the Law Enforcement Authority

1. Investigate all incidents reported to have occurred on school property, at any school sponsored activity or on any public conveyance providing transportation to or from a school or school sponsored activity. The investigation of all reported incidents shall involve as little disruption of the school environment as is practicable.
2. Identify those responsible for the commission of the reported incident and, where appropriate, apprehend and prosecute those individuals. Identification and apprehension procedures shall involve as little disruption of the school environment as is practicable.
3. Assist the School Entity in the prevention of the incidents described in Section II of this document.

#### E. Priorities of the School Entity

1. Create safe learning environments, which support each student's well-being and opportunities to reach their full potential while balancing and protecting the rights of all students within their authority.
2. Establish and maintain cooperative relationships with the Law Enforcement Authority in the reporting and resolution of all incidents described in Section II of this document.
3. Foster partnerships with the Law Enforcement Authority for the education and guidance of students to create a school climate and knowledge base conducive to learning and personal growth.



4. Provide the Law Enforcement Authority with all relevant information and required assistance in the event of a reported incident.

#### F. Legal Authority

1. The parties to this Memorandum enter into this agreement in accordance with the provisions of the act of March 10, 1949 (P.L. 30, No. 14), as amended, 24 P.S. §13-1301-A, *et seq.* (hereinafter “Safe Schools Act”), requiring all school entities to develop a memorandum of understanding with local law enforcement which sets forth procedures to be followed when an incident involving an act of violence or possession of a weapon, as further specified in Section II of this document, by any person occurs on school property. Law enforcement protocols shall be developed in cooperation with local law enforcement and the Pennsylvania State Police. 24 P.S. §13-1303-A(c).
2. In so recognizing this legal authority, the parties acknowledge their respective duties pursuant to the Safe Schools Act and hereby agree to support and cooperate with one another in carrying out their joint and several responsibilities thereunder.

## II. Notification of Incidents to Law Enforcement

### A. Mandatory Notification

The School Entity shall immediately report by the most expeditious means possible to the Law Enforcement Authority the occurrence of any of the following incidents occurring on school property, at any school sponsored activity or on any public conveyance providing transportation to or from a school or school sponsored activity, including but not limited to a school bus:

1. The following offenses under 18 Pa. C.S (relating to crimes and offenses):
  - a. Section 908 (relating to prohibited offensive weapons).
  - b. Section 912 (relating to possession of weapon on school property).
    - i. As used in this Memorandum “weapon” shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle, metal knuckles, billy club, blackjack, grenade, incendiary device and any other tool, instrument or implement capable of inflicting serious bodily injury.
    - ii. This reporting requirement does not apply to a weapon which is: (a) used, as part of a school-approved program, by an individual who is participating in the program; or (b) an unloaded weapon possessed by an individual while traversing school property for the purpose of obtaining access to public or private lands used for lawful hunting if the entry on school premises is authorized by school authorities.

- c. Chapter 25 (relating to criminal homicide).
  - d. Section 2701 (relating to simple assault).
  - e. Section 2702 (relating to aggravated assault).
  - f. Section 2706 (relating to terroristic threats).
  - g. Section 2709 (relating to harassment).
  - h. Section 2709.1 (relating to stalking).
  - i. Section 2901 (relating to kidnapping).
  - j. Section 2902 (relating to unlawful restraint).
  - k. Section 3121 (relating to rape).
  - l. Section 3122.1 (relating to statutory sexual assault).
  - m. Section 3123 (relating to involuntary deviate sexual intercourse).
  - n. Section 3124.1 (relating to sexual assault).
  - o. Section 3124.2 (relating to institutional sexual assault).
  - p. Section 3125 (relating to aggravated indecent assault).
  - q. Section 3126 (relating to indecent assault).
  - r. Section 3127 (relating to indecent exposure).
  - s. Section 3301 (relating to arson and related offenses).
  - t. Section 3307 (relating to institutional vandalism), when the penalty is a felony of the third degree.
  - u. Section 3502 (relating to burglary).
  - v. Section 3503(A) AND (B)(1)(V) (relating to criminal trespass).
  - w. Section 3701 (relating to robbery).
  - x. Section 3702 (relating to robbery of motor vehicle).
  - y. Section 5501 (relating to riot).
  - z. Section 6110.1 (relating to possession of firearm by minor).
2. The possession, use or sale of a controlled substance or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act."
- a. As used in this Memorandum, "controlled substance" shall include the possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L. 233, No. 64) known as "The Controlled Substance, Drug, Device and Cosmetic Act" (hereinafter "Drug Act") including, but not limited to, marijuana, cocaine, crack cocaine, heroin, LSD, PCP, amphetamines, steroids and other substances commonly known as "designer drugs." *See* 35 P.S. §§ 780-101 *et seq.*
  - b. Included in this reporting provision shall be the possession, use or sale of drug paraphernalia, as defined in the Drug Act, including, but not limited to, hypodermic syringes, needles and, depending on the circumstances, rolling papers, as well as all other equipment or materials utilized for the purpose of ingesting, inhaling, or otherwise introducing controlled substances into the body. *See* 35 P.S. § 780-102.

3. Attempts, solicitation or conspiracy to commit any of the offenses listed in subsections (1) and (2).
4. An offense for which registration is required under 42 Pa. C.S. § 9795.1 (relating to registration).
5. Purchase, consumption, possession or transportation of liquor or malt or brewed beverages by a person under 21 years of age. *See* 18 Pa. C.S. § 6308(a).

#### B. Discretionary Notification

The School Entity may report to the Law Enforcement Authority the occurrence of any of the following incidents occurring on school property, at any school sponsored activity or on any public conveyance providing transportation to or from a school or school sponsored activity, including but not limited to a school bus:

1. The following offenses under 18 Pa. C.S (relating to crimes and offenses):
  - a. Section 2705 (relating to recklessly endangering another person).
  - b. Section 3307 (relating to institutional vandalism), when the penalty is a misdemeanor of the second degree.
  - c. Section 3503(b)(1)(i), (ii), (iii) and (iv), (b.1) and (b.2) (relating to criminal trespass).
  - d. Chapter 39 (relating to theft and related offenses).
  - e. Section 5502 (relating to failure of disorderly persons to disperse upon official order).
  - f. Section 5503 (relating to disorderly conduct).
  - g. Section 6305 (relating to sale of tobacco).
  - h. Section 6306.1 (relating to use of tobacco in schools prohibited).
2. Attempt, solicitation or conspiracy to commit any of the offenses listed in subsection (1).

#### C. Notification of the Law Enforcement Authority when incident involves children with disabilities

1. In accordance with 34 CFR 300.535 nothing will prohibit the district/school from reporting a crime committed by a child with a disability to the Law

Enforcement Authority or will prevent State law enforcement and judicial authorities from exercising their responsibilities with regard to the application of Federal and State law to crimes committed by a child with a disability.

2. The district/school reporting a crime committed by a child with a disability must ensure that copies of the special education and disciplinary records of the child are transmitted for consideration by the appropriate authorities to the Law Enforcement Authority to whom the incident was reported.
3. The district/school reporting an incident under this section may transmit copies of the child's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act.
4. If someone other than the district/school has reported an incident or having the student arrested the district/school may as allowable under FERPA release the student's records.
5. [Describe any specific procedures to be followed for incidents involving a student with a disability : \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

D. Upon notification of the incident to the Law Enforcement Authority, the School Entity shall provide as much of the following information as is available at the time of notification. In no event shall the gathering of information unnecessarily delay notification:

1. Whether the incident is in-progress or has concluded.
2. Nature of the incident.
3. Exact location of the incident.
4. Number of persons involved in the incident.
5. Names and ages of the individuals involved.
6. Weapons, if any, involved in the incident.
7. Whether the weapons, if any, have been secured and, if so, the custodian of the weapons.
8. Injuries involved.
9. Whether EMS or the Fire Department were notified.
10. Identity of the school contact person.
11. Identity of the witnesses to the incident, if any.
12. All other such information as is known to the school authority which can be deemed relevant to the incident under investigation.

E. Additionally, in anticipation of the need for the Law Enforcement Authority and other first responders to respond to incidents described herein, the School Entity should have available in their “Go Kit” to bring to the Command Post the following information:

- a. Blueprints or floor plans of the school buildings;
- b. Aerial photo, map or layout of the school campus, adjacent properties and surrounding streets or roads, if available;
- c. Location(s) of predetermined or prospective command posts;
- d.c. Current day teacher/employee roster;
- e.d. Current day student roster;
- f. Current school yearbook;
- g.e. School fire-alarm shutoff location and procedures;
- h.f. School sprinkler system shutoff location and procedures;
- i.g. Gas/utility line layouts and shutoff valve locations; and
- j.h. Cable/satellite television shutoff location and procedures.
- k.i. A copy of the school and/or district All-Hazards Plan.

### **III. Law Enforcement Authority Response**

A. Depending on the totality of the circumstances, initial response by the Law Enforcement Authority shall include:

1. For incidents in progress:
  - a. Meet with contact person and locate scene of incident.
  - b. Stabilize incident.
  - c. Provide/arrange for emergency medical treatment, if necessary.
  - d. Control the scene of the incident
    - i. Secure any physical evidence at the scene
    - ii. Identify involved persons and witnesses
  - e. Conduct investigation
  - f. Exchange information
  - g. Confer with school officials to determine the extent of law enforcement involvement required by the situation
2. Incidents not in progress:
  - a. Meet with contact person
  - b. Recover any physical evidence
  - c. Conduct investigation
  - d. Exchange information
  - e. Confer with school officials to determine the extent of law enforcement involvement required by the situation
3. Incidents involving delayed reporting
  - a. In the event that a reportable incident occurs on school property, at a school sponsored event, or on any public conveyance providing transportation to or from a school or school sponsored activity after the conclusion of the school

day or after the conclusion of the event at which the incident occurred, the School Entity shall report the incident to the Law Enforcement Authority immediately upon its notification.

- b. If such incident is initially reported to the School Entity, the School Entity shall proceed as outlined in paragraphs II (A – C) above.
- c. If the incident is initially reported to the Law Enforcement Authority, Law Enforcement Authority shall proceed directly with its investigation and shall immediately notify the School Entity of the incident, with all pertinent and reportable information, by the most expeditious means possible as if the reporting was not delayed.

#### B. Custody of Actors

1. Students identified as actors in reported incidents may be taken into custody at the discretion of the investigating law enforcement officer if:
  - a. the student has been placed under arrest;
  - b. the student is being placed under investigative detention;
  - c. the student is being taken into custody for the protection of the student; or
  - d. the student's parent or guardian consents to the release of the student to law enforcement custody.
2. The investigating law enforcement officer shall take all appropriate steps to protect the legal and constitutional rights of those students being taken into custody.

### **IV. Assistance of School Entities**

#### A. In Loco Parentis

1. Teachers, Guidance Counselors, Vice Principals and Principals in the public schools have the right to exercise the same authority as to conduct and behavior over the pupils attending school, during the time they are in attendance, including the time required in going to and from their homes, as the parents, guardian or persons in parental relation to such pupils may exercise over them.
2. School authorities' ability to stand in loco parentis over children does not extend to matters beyond conduct and discipline during school, school activities, or on any public conveyance providing transportation to or from school or school sponsored activity.

#### B. Notification of Parent or Guardian

1. Taking into consideration the totality of the circumstances, parents or guardians of students involved in acts of violence, possession of weapons, sexual assault, or

the possession, use or sale of a controlled substance or the underage possession of alcohol or intoxication from alcohol should be notified of the involvement as soon as possible.

2. The School Entity shall document attempts made to reach the parents or guardians of all victims, witnesses and suspects of incidents reportable to law enforcement authorities pursuant to the terms of this agreement.
3. Except in cases in which the suspect student has been injured and requires medical attention, the decision to notify a suspect's parents or guardians shall be a cooperative decision between school officials and law enforcement authorities.

### C. Scope of School Entity's Involvement

#### 1. Victims

- a. The Law Enforcement Authority does not need to secure parental permission to interview a victim.
- b. The School Entity shall promptly notify the parent or guardian of a victim when the Law Enforcement Authority interviews that victim. The Law Enforcement Authority shall follow department policies and procedures when interviewing a victim to ensure the protection of the victim's legal and constitutional rights.
- c. In the event a victim is interviewed by Law Enforcement Authority on school property, a guidance counselor or similar designated personnel shall be present during the interview.

#### 2. Witnesses

- a. The Law Enforcement Authority does not need to secure parental permission to interview a witness to a reportable incident.
- b. The School Entity shall promptly notify the parent or guardian of a witness when the Law Enforcement Authority interviews that witness. The Law Enforcement Authority shall follow department policies and procedures when interviewing a witness to ensure the protection of the witness's legal and constitutional rights.
- c. In the event a witness is interviewed by Law Enforcement Authority on school property, a guidance counselor or similar designated personnel shall be present during the interview.

#### 3. Suspects

- a. General Principles: Once the Law Enforcement Authority assumes primary responsibility for a matter, the legal conduct of interviews, interrogations, searches, seizures of property, and arrests are within the purview of the Law Enforcement Authority. The School Entity shall defer to the expertise of the Law Enforcement Authority on matters of criminal and juvenile law procedure, except as is necessary to protect an interest of the School Entity.

b. Custodial Interrogation

- i. Depending upon the individual circumstances of the incident, a juvenile suspect may or may not be competent to waive his/her rights to consult with an interested adult and/or an attorney prior to interrogation by law enforcement authorities.
- ii. The School Entity shall cooperate with the Law Enforcement Authority to secure the permission and presence of at least one parent or guardian of a student suspect before that student is interrogated by law enforcement authorities.
- iii. In the event an interested adult cannot be contacted, the School Entity shall defer to the policies, procedures and direction of the investigating Law Enforcement Authority who shall act in a manner consistent with the protection of the student suspect's legal and constitutional rights.

4. Conflicts of Interest

- a. The parties to this Memorandum recognize that in the event that a School Entity employee, contractor, or other person acting on behalf of the School Entity is the subject of an investigation, a conflict of interest may exist between the School Entity and the adult suspect.
- b. Where the possibility of such a conflict exists, neither the individual that is the subject of the investigation nor any person acting as his/her subordinate or direct supervisor shall be present during Law Enforcement Authority's interviews of student co-suspects, victims or witnesses by the Law Enforcement Authority.
- c. Neither the individual who is the subject of the investigation, nor his/her subordinate(s) and/or direct supervisor(s) shall be informed of the contents of the statements made by student co-suspects, victims or witnesses, except at the discretion of the Law Enforcement Authority or as otherwise required by law.

D. Reporting Requirements and Exchange of Information

1. The Law Enforcement Authority shall be governed by the following reporting and information exchange guidelines:
  - a. Criminal History Record Information Act, 18 Pa. C.S. §§ 9101 *et seq.*
  - b. The prohibition against disclosures, specified in paragraph IV(C)(4) of this Memorandum.
2. When sharing information and evidence necessary for the Law Enforcement Authority to complete their investigation, the School Entity shall:
  - a. Comply with the Federal Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g and its implementing regulations at 34 C.F.R. § 99.1 *et seq.*, and 22 Pa. Code §§ 12.31-12.33 and any amendments thereto.
  - b. Comply with the requirements of the Public School Code of 1949, 24 P.S. §§ 13-1303-A and 13-1317.2 and any amendments thereto.



- c. Complete reports as required by the Public School Code of 1949, 24 P.S. § 13-1303-A and any amendments thereto.
3. All school entities are required submit an annual report, which will include violence statistics and reports to the Department of Education’s Office of Safe Schools no later than July 31<sup>st</sup> each year. This annual report must include all new incidents described in Section II (A) above. Prior to submitting the required annual report, each chief school administrator and each police department having jurisdiction over school property of the School Entity shall do the following:
- a. No later than thirty days prior to the deadline for submitting the annual report, the chief school administrator shall submit the report to the police department with jurisdiction over the relevant school property. The police department shall review the report and compare the data regarding criminal offenses and notification of law enforcement to determine its accuracy.
  - b. No later than fifteen days prior to the deadline for submitting the annual report, the police department shall notify the chief school administrator, in writing, whether the report accurately reflects police incident data. Where the police department determines that the report accurately reflects police incident data, the chief of police shall sign the report. Where the police department determines that the report does not accurately reflect police incident data, the police department shall indicate any discrepancies between the report and police incident data.
  - c. Prior to submitting the annual report, the chief school administrator and the police department shall attempt to resolve discrepancies between the report and police incident data. Where a discrepancy remains unresolved, the police department shall notify the chief school administrator and the office in writing.
  - d. Where a police department fails to take action as required under clause (a) or (b), the chief school administrator shall submit the annual report and indicate that the police department failed to take action as required under clause (a) or (b).
  - e. Where there are discrepancies between the School Entity’s incident data and the police incident data, the following shall occur:

[Describe procedure to be followed for the resolution of school violence data discrepancies prior to filing the annual report]: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**V. Media Relations**

A. Release of information

1. The release of information concerning incidents reportable to the Law Enforcement Authority pursuant to the terms of this Memorandum shall be coordinated between the Law Enforcement Authority and the School Entity.
2. The parties shall release as much information as is allowable by law with due deliberation given to the investigative considerations and the need to limit disruptions to school functions and protect the privacy of the students and staff involved.

**VI. General Provisions**

- A. This Memorandum is not intended to and does not create any contractual rights or obligations between the signatory Law Enforcement Authority, the signatory School Entity, any additional signatory authorities or entities, or their respective officer, employees, agents or representatives.
- B. This Memorandum may be amended, expanded or modified at any time upon the written consent of the parties, but in any event must be reviewed and re-executed within two years of the date of its original execution and every two years thereafter.
- C. In the event of changes in state or federal law which necessitate changes to this Memorandum, the parties shall collaborate to amend this Memorandum to assure compliance by the parties with state and federal requirements.
- D. All parties to this Memorandum will communicate fully and openly with each other in order to resolve any problems that may arise in the fulfillment of the terms of this Memorandum.

**AND NOW**, this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, the parties hereby acknowledge the foregoing as the terms and conditions of their understanding.

\_\_\_\_\_  
Chief School Administrator

\_\_\_\_\_  
School Entity

\_\_\_\_\_  
Chief Law Enforcement Authority

\_\_\_\_\_  
Law Enforcement Authority

\_\_\_\_\_  
Building Principal

\_\_\_\_\_  
School Building