

**MEMORANDUM OF UNDERSTANDING,
BETWEEN NEWTON PUBLIC SCHOOLS
AND NEWTON POLICE DEPARTMENT**

I. GENERAL PRINCIPLES

The NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT agree to coordinate their efforts and share information in order to prevent violence involving the students of the NEWTON PUBLIC SCHOOLS, to prevent the use, abuse and distribution of alcohol and other controlled substances involving the students of NEWTON PUBLIC SCHOOLS and to promote a safe and nurturing environment in the school community.

We agree to respond effectively and cooperatively for everyone's protection to incidents of student delinquency, truancy, and criminal behavior. The joint effort of cooperative response will focus on incidents that take place on school property, at school sponsored events, and at other locations in which students of the NEWTON PUBLIC SCHOOLS are involved or affected.

We also agree to keep all information disclosed pursuant to G.L. c. 12 § 32; G.L. c. 71 § 37H1/2; G.L. c. 71 § 37L; 603 CMR 23; and 20 U.S.C. § 1232g, from public dissemination in accordance with state and federal law.

This agreement is entered into pursuant to the Laws of the Commonwealth of Massachusetts and pertains to issues of violence, attempted violence or threatened violence, the use, abuse and/or distribution of alcohol or other drugs, or other incidents that would require a law enforcement response to a school, during any school sponsored activity (on or off school grounds), or involving students of the NEWTON PUBLIC SCHOOLS. It is to be read in conjunction with any and all policies, procedures, and reporting requirements set forth in the NEWTON PUBLIC SCHOOLS student handbook.

It is agreed and understood that it is the sole prerogative of school officials to impose discipline for infractions of school rules and policies not amounting to criminal or delinquent conduct. See the school handbook for specific policies and procedures in this regard.

II. SCHOOL AND POLICE DEPARTMENT DESIGNATED LIAISONS

In order to facilitate prompt and clear communications between the school and police personnel, the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT agree to identify individuals on their respective staffs who will function as Designated Liaisons.

A. THE NEWTON PUBLIC SCHOOLS DESIGNATED LIAISONS, BY SCHOOL, ARE:

- Superintendent of Schools
- School Principals
- Assistant Principals or Vice Principals
- Housemasters
- Prevention Intervention Counselors

B. THE NEWTON POLICE DEPARTMENT DESIGNATED LIAISONS ARE:

- Captain, Sergeant, Youth Officers of the Detective Bureau
- Lieutenant, Youth Officers from Community Services Bureau

The aforementioned police department designated liaisons are considered a part of the NEWTON PUBLIC SCHOOLS District's "Law Enforcement Unit" as defined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) for purposes of sharing information regarding students.

III. ISSUES OF CONCERN TO THE DESIGNATED LIAISONS

A. REPORTABLE INCIDENTS:

- (1) The Designated Liaisons from the School and Police Department will review all incidents classified as Mandatory Reportable Incidents, as defined in Section IV of this agreement.
- (2) Additionally, the Designated Liaisons will review any incident or information that may affect the safety or well being of students, faculty, or administrative personnel.

B. PREVENTION STRATEGIES:

In addition to the above responsibilities, the Designated Liaisons from the School, the Police Department and the Middlesex District Attorney's Office will meet regularly for the following purposes:

- (1) to discuss incidents of violence or bullying (as defined under G.L. c. 71, § 37O) in school or outside of school that affects students of the school;
- (2) to discuss any use, abuse or distribution of alcohol and/or other controlled substances or any other criminal activity affecting students;
- (3) to identify strategies to reduce such activities and to promote a safe and nurturing school environment;
- (4) to discuss community resources available for students at risk of harm from violence, abuse or neglect;

- (5) to develop violence prevention and intervention programs, identification, protocol and curricula as required by G.L. c. 12 § 32; and
- (6) to outline the necessary action plan for implementation of such strategies.

IV. REPORTING GUIDELINES

A. SCHOOL REPORTS TO POLICE DEPARTMENT

- (1) The following shall be considered Mandatory Reportable Incidents:
 - (a) possession, use, or distribution of alcohol by a student;
 - (b) possession, use, or distribution of an inhalant or any controlled substance, as defined in G.L. c. 94C (excepting any possession of prescription medication possessed and administered in accordance with state law and school policy);
 - (c) any incident in which any individual is reasonably believed to be distributing controlled substances or alcohol;
 - (d) any incident involving the threat of assaultive behavior or intentional assaultive behavior and/or reckless behavior that results in personal injury;
 - (e) possession of a weapon, as defined in the school handbook or under G.L. c. 71 § 37H (a), which includes, but is not limited to, a gun or a knife, and ammunition or components thereof.
 - (f) any incident involving stalking or harassment in violation of G.L. c. 265 § 43 and 43A, annoying phone calls, domestic abuse, dating violence, or a violation of G.L. c. 209A or 258E restraining order, and any students either protected by a restraining order;
 - (g) any incident involving a child suffering physical or emotional injury resulting from abuse inflicted upon him or her which causes harm or the substantial risk of harm to the child's health or welfare, including sexual abuse or from neglect (in addition to a report filed with the Department of Children and Families);
 - (h) any incident involving an actual or suspected hate crime or violation of civil rights, including but not limited to an assault or battery upon a person or damage to the real or personal property of a person with the intent to intimidate such person because of such person's race, color, national origin, sexual orientation, or disability in violation of G.L. c. 265 §§ 37 and 39, as well as any act of bodily injury or attempt to cause bodily injury against a person due to actual or perceived religion, national origin, gender, sexual

orientation, gender identity, or disability in violation of 18 U.S.C. § 249;

- (i) any incident resulting in significant damage to municipal or private property;
 - (j) any bomb threat, fire, threatened or attempted fire setting, threatened or attempted use of an explosive device or hoax device, or possession of a "novelty lighter" as defined by G.L. c. 148 § 60. NOTE: The school shall also report "unauthorized ignition of any fires" to the local fire department under G.L. c. 148 § 2A;
 - (k) any creation or possession of a document, whether computer or manually generated, handwritten or electronic (e.g., *text or email*), that identifies any individual targeted for violence or death;
 - (l) any threat, direct or indirect, past or future, against a student, school personnel or other school employee;
 - (m) any incident of "hazing" as defined by G.L. c. 269 § 17, involving any conduct or ritual or method of initiation into any school organization that endangers the physical or mental health of any student;
 - (n) any sexual assault, including but not limited to rape, assault with intent to rape, indecent assault and battery, as well as any lewd and lascivious behavior, open and gross lewdness, indecent exposure, or incident of gender-based harassment, "sexting", "sextortion"¹ or possession or dissemination of sexually explicit photographs of a student;
 - (o) any incident of "bullying" or "cyber-bullying" as defined by G.L. c. 71 § 37O where the school believes that the incident may have involved criminal conduct or involves any other reportable acts outlined in (a) through (n).
- (2) Mandatory Reportable Incidents will be immediately reported to the NEWTON POLICE DEPARTMENT if such incident:
- (a) occurred on school property or within 1,000 foot radius of school property;
 - (b) occurred at a school-sponsored function;

¹ "Sexting" refers to the sending of a photograph or other visual image, depicting a person in a partial or total state of nudity, via text message, from one electronic device to another, usually cell telephones. "Sextortion" refers to a form of extortion (attempted or completed) where a person is extorted with a nude or partially nude image of themselves they had shared through "sexting", usually of money, additional images or a promise of sexual acts.

- (c) occurred in a school owned or contracted bus or other vehicle or at school bus stop; or
 - (d) involved a student of the NEWTON PUBLIC SCHOOLS.
- (3) The Designated Liaisons from the School may report any other incident or information that may affect the safety or well being of students, faculty, or administrative personnel at the School.

B. POLICE DEPARTMENT REPORTS TO THE SCHOOL

The appropriate Police Department Designated Liaison will inform the appropriate School Designated Liaison, subject to applicable statutes and regulations governing confidentiality, of:

- (1) any arrest of a student or the filing of a criminal or delinquency complaint application against any student of NEWTON PUBLIC SCHOOLS; and
- (2) any occurrence involving a student of the NEWTON PUBLIC SCHOOLS, if the
 - (a) activity poses a serious (present or future) threat to the safety of the student, other students, faculty, or administrative personnel;
 - (b) making of such report would facilitate supportive intervention by school personnel on behalf of the student; or
 - (c) activity involves actual or possible truancy.

V. PROCEDURE GUIDELINES

A. INTRODUCTION

A goal of educators is to provide a safe and nurturing climate in which learning can take place. It is also a goal of local law enforcement to promote a safe environment in the public school community.

As past events have shown, any school is at risk for incidents of violence, threatened violence or attempted violence, as well as the use, abuse and distribution of alcohol and other controlled substances, all of which diminish the ability of the school community to focus upon the business of learning. In order to promote a safe and nurturing environment in our schools and in our community, it is in our common interest to share information. It is through the collaborative efforts of the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT that this can occur.

In order to maintain a safe and nurturing environment in its schools, the NEWTON PUBLIC SCHOOLS reserves the right to conduct a reasonable search

all school property for weapons, alcohol, other contraband or controlled substances in accordance with state and federal law and the student handbook.

B. REPORTING PROCEDURES FOR EMERGENCY SITUATIONS

Definition: An emergency situation is any incident that poses a threat to human health or safety or which may result in serious property damage.

A teacher or other employee having knowledge of any emergency situation shall immediately notify or cause to be notified both the NEWTON POLICE DEPARTMENT (911) and the School Principal or Assistant Principal. This requirement is in addition to any procedures outlined in the student handbook.

Where an emergency exists and there is an immediate need to avert or defuse certain unusual conditions or disruptions in the school setting, the school will provide all necessary information to law enforcement personnel regarding the student at issue. (See § 99.31(a) (10) of the FERPA regulations.)

C. REPORTING PROCEDURES FOR NON-EMERGENCY SITUATIONS

A teacher or other school employee, having reasonable grounds to believe that a student has committed an act categorized as a Mandatory Reportable Incident, shall promptly (1) report the incident and names of any involved persons to the appropriate Designated School liaison and (2) take reasonable steps to maintain any pertinent physical evidence in a secure place.

D. RESPONSIBILITY OF THE DESIGNATED SCHOOL LIAISON

Once a Designated School Liaison has been made aware of a Mandatory Reportable Incident, it is her/his responsibility to immediately:

- (1) notify the Police Department Designated School Liaison and, when appropriate, the parents or guardians of the involved students;
- (2) notify the Police Liaison of the existence of pertinent physical evidence and take reasonable steps to maintain it in a secure place; and
- (3) notify the Police Liaison of any related written reports about the incident.

VI. PROCEDURES FOR INTERVIEWING OR ARRESTING STUDENT/S ON SCHOOL GROUNDS

Close cooperation and communication between the schools and police, and a mutual understanding of and respect for the important role that each plays in connection with our youth, are essential to the success of the mission of both institutions. Whenever it is necessary for the police to be present on school property, they will conduct themselves according to accepted legal practices, recognizing the responsibility and authority of school officials to manage the

school environment and work with school officials to minimize any impact their actions might have on that environment.

A. GENERAL

This agreement pertains to juveniles on school property during school hours or during school-sanctioned events, on or off school property. It does not pertain to juveniles trespassing or committing offenses on school property after school hours.

B. INTERVIEWING/INTERROGATING STUDENTS

- (1) Except in exigent circumstances, officers who wish to detain or question youths on school property shall first contact the school principal or his/her designee. To the degree possible, officers shall explain the nature of their business and the need to meet with the youth(s) in question. Wherever possible, parents will be notified by the school prior to the officers detaining or questioning the youth(s).
- (2) In general, students should not be publicly contacted by officers in the school setting for purposes of questioning unless exigent circumstances exist or such notification would potentially jeopardize student, school staff, or officer safety.
- (3) At their request, school officials and/or parents may be present as observers during interviews or questioning of the students.

C. JUVENILE INCIDENTS/CRIMES COMMITTED ON SCHOOL GROUNDS

- (1) Only a small percentage of school related juvenile incidents reported to the Newton Police Department amount to serious crimes. As such, the vast majority of juveniles involved in incidents are likely candidates for positive diversion and intervention efforts agreed upon by school officials, the police and parents.
- (2) When juveniles commit a more serious act that, if committed by an adult, would constitute a crime not amounting to a serious or violent felony, youth officers, working with school officials shall, when appropriate, request a hearing or summons instead of affecting an arrest.
- (3) Juvenile incidents that constitute serious or violent felonies if committed by an adult, would generally, but not always, result in an arrest. The following are examples of serious/violent crimes where any arrest should be contemplated:
 - a. felony assault with intent to cause serious bodily injury or death;
 - b. robbery involving force;
 - c. sale of controlled substance;
 - d. burglary; and
 - e. rape.

Also, with respect to active arrest warrants and violations of active restraining orders which may result in an arrest, the police will consult with school officials on the least disruptive way to take the youth into custody.

D. ARREST/REMOVAL OF STUDENTS

- (1) As a general rule, officers should avoid making arrests on school grounds when they may be made effectively elsewhere. Whenever possible, youth officers or police supervisors shall work with school authorities to make the appropriate arrangements for taking the juvenile into custody off of the school grounds.
- (2) Where possible, officers should not arrest juveniles on school grounds if the use of force is a reasonable possibility.
- (3) When an arrest of a juvenile must be made during school hours on school grounds or at school sanctioned activities, a youth officer will be notified to respond if not already at the scene. In the event that youth officers are unavailable, the patrol supervisor will go to the scene to consult with school officials and take appropriate action.
- (4) Students shall not be removed from school property or school sanctioned events without the youth officer or supervisors making notification to the school principal or his/her designee, unless exigent circumstances exist.
- (5) The youth officer or supervisor shall notify the principal or her/his designee *before* arresting a student(s) on school grounds during school hours or school sanctioned activities on or off school grounds unless exigent circumstances exist or such notification would potentially jeopardize the ability of officers to safely and effectively make the arrest. Whenever possible, parents will be notified by the schools if a student is arrested on school grounds.
- (6) Working with designated school officials, the youth officer or supervisor will arrange for the least disruptive and embarrassing method of affecting the arrest.

VII. IMPLEMENTATION

A. TRAINING

The NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT agree to provide agency-wide training to their respective staffs to inform them of their roles and responsibilities under this agreement and to consult with the Middlesex District Attorney's Office as appropriate regarding this agency-wide training. On an on-going basis, the same training will be provided to new staff members.

B. EFFECTIVE DATE AND DURATION OF THIS AGREEMENT

The provisions of this Memorandum of Understanding shall be effective as of the date of signing and will remain in full force and effect until amended or rescinded by the parties.

FOR THE NEWTON PUBLIC SCHOOLS:

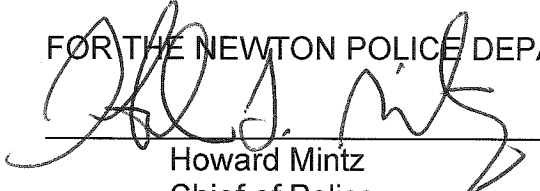


David Fleishman
Superintendent of Schools



Date

FOR THE NEWTON POLICE DEPARTMENT:



Howard Mintz
Chief of Police



Date

APPENDIX A

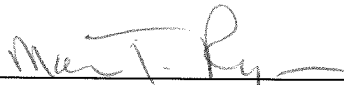
ROLE OF THE OFFICE OF THE MIDDLESEX DISTRICT ATTORNEY

In the spirit of the legislative mandate regarding communication between the district attorney, law enforcement and school officials, as included in General Laws, Chapter 12, Section 32, and to assist the NEWTON PUBLIC SCHOOLS in providing a safe environment for learning, in accordance with the legislative mandate set forth in G.L. c. 71, §§ 37H and 371/2H, among others, the Middlesex District Attorney's Office (MDAO), through her designees, agrees to:

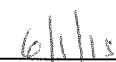
- (1) report to the school any complaint, criminal or delinquency, that is issued against a defendant or juvenile who is known to be a student of the NEWTON PUBLIC SCHOOLS;
- (2) report to the school the facts underlying any incident which the MDAO is considering diverting a student in lieu of prosecution where the student is known to attend the NEWTON PUBLIC SCHOOLS;
- (3) report to the school any adjudication of delinquency or conviction, or other significant occurrence that arises from any above criminal or delinquency proceeding;
- (4) consult with the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT when fashioning proposed terms and conditions to be imposed upon a known student of the NEWTON PUBLIC SCHOOLS at both the pre-adjudication and post-adjudication stages of the prosecution; and
- (5) consult with the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT when deciding whether to divert a known student in lieu of prosecution or to prosecute a student as a Youthful Offender.

The Middlesex District Attorney agrees to provide training to the MDAO staff to inform them of their roles and responsibilities under this agreement. On an on-going basis, the same training will be provided to new staff members.

The MDAO will not disclose a student's personally identifiable information learned during and/or in relation to a G.L. c. 12, § 32 community based justice meeting to a third party other than another juvenile justice system agency and/or as provided by state and federal law.



Marian T. Ryan
District Attorney
Middlesex County



Date