

MEMORANDUM OF UNDERSTANDING

between
Newport News Public Schools
And
City of Newport News, on behalf of the
Newport News Police Department

SCHOOL RESOURCE OFFICERS

I. PURPOSE

This Memorandum of Understanding (MOU), dated this 27th day of August, 2019, serves to document the partnership between the Newport News Public Schools (NNPS) and the City of Newport News, on behalf of the Newport News Police Department (Police Department) for the implementation of the School Resource Officer (SRO) Program. The Police Department and NNPS are committed to this collaborative effort in order to promote a safe school community.

In addition, this MOU clarifies the roles of the SRO and school administrators, their scope of authority, as well as the responsibility of NNPS and the Police Department. As the success of the SRO Program will depend on the effective communication among the SRO, NNPS, and the Police Department, this MOU also clarifies the procedures pertaining to the sharing and exchange of information.

II. PROVISION OF SCHOOL RESOURCE OFFICERS

The Newport News Police Department shall furnish to NNPS thirteen (13) police officer positions for School Resource Officer (SRO) positions and two supervisors. The Police Department shall provide for the employment, supervision, and evaluation of each SRO and supervisor. These positions will be assigned one per school to Denbigh HS, Heritage HS, Menchville HS, Warwick HS, Woodside HS, Achievable Dream MS/HS, Crittenden MS, Gildersleeve MS, Hines MS, and Mary Passage MS, Dozier MS, Booker T. Washington MS and Enterprise Academy.

At each school the SRO will work the full day, consisting of reporting for duty at the school one half hour before the published start of school hours and departing duty at the school one half hour after the published end of student hours, except at Achievable Dream which would require more than a 40-hour work week. The SRO in conjunction with the principal and NNPD supervisor(s) shall work out a schedule not to exceed the 40-hour work week. All extracurricular functions requested by Newport News Public Schools will be paid an overtime rate by the schools or School Board and subject to availability of SROs or any other officer approved by the Police Department.

The NNPD will provide (2) SROs to assist with NNPS Summer School Program.

III. SELECTION OF THE SCHOOL RESOURCE OFFICER

NNPD and NNPS will collaborate on the selection of officers to be assigned. The NNPS Supervisor of Security and Emergency Management will represent the school division in this process. NNPS will communicate any concerns with the NNPD Supervisor. Additionally, the NNPD reserves the right to recall or remove any assigned officer from the Newport News Public School. Every reasonable attempt will be made to contemporaneously inform the principal of the affected school and the Superintendent or designee. The NNPD will work in conjunction with NNPS to fill the vacancy as soon as possible. The final decision

regarding the selection and assignment of officers to SRO positions rests with the Chief of Police or his designee.

IV. SCHOOL RESOURCE OFFICER (SRO) ROLES AND RESPONSIBILITIES

The SRO Program fulfills a vital role in promoting safe school communities. Safe school communities promote trust in the school division and law enforcement, contribute to the learning process, and foster quality county growth.

- The SRO is a sworn Law Enforcement Officer, assigned to provide law enforcement expertise and resources to assist school administrators and staff in maintaining safety and order within assigned schools. As a general practice, unless there is a clear and imminent threat to safety, requests from school staff for SRO or other law enforcement assistance are to be channeled through a school administrator.
- The SRO duty schedule will be determined by the Police Department, but generally will be arranged to provide coverage throughout the school day, including peak arrival and departure times. Whenever possible the SRO will maintain a visible presence in the school's interior and exterior by patrolling areas during instructional times, class changes and lunch periods.
- The SRO acts as a positive role model, and serves as a contact to support services both within and outside of the school organization.
- The SRO will encourage student interest in law enforcement as a potential career and serve as an educational resource by sharing expertise in the classroom.
- The SRO should assist the administration of the school in increasing awareness to issues involving crime both on campus and in the community.
- The SRO may assist with conducting training for school administrators in law enforcement and related areas. The SRO will share information about crime trends, changes to the Code of Virginia and community problems such as gang awareness with school administrators and staff to assist them in effectively providing a safe school environment.
- The SRO will wear an approved uniform by the Police Department and operate a marked city Police Department vehicle while on duty unless otherwise authorized by the Police Department. The SRO provides a visible deterrent to crime when in uniform, while presenting a positive impression of the Police Department to students and school staff.
- The SRO will meet as necessary or upon request with school administrators about issues involving criminal activity, potential safety issues, and other areas of concern that may lead to potential disruption of the school environment. The SRO and school administrators will share school information in compliance with Va. Code § 22.1-279.3:1. In the absence of the SRO, the school division will contact the Police Department by calling 757-247-2500.
- The SRO should be familiar with School Board Policies and Regulations, as well as school rules and procedures.
- The SRO will handle all reports and assigned investigations for incidents occurring on their assigned school property or school transportation routes. When necessary, the SRO will affect arrests and will fill out the IBR Report and Juvenile Offense Report for those Officers and will obtain the appropriate petitions or warrants.
- The SRO shall move freely on the school campuses, as this is a proven crime prevention practice.
- Other duties and responsibilities of the SRO may include but are not limited to the following:
 - Ensuring the proper collection and disposal of illegal substances recovered by the school that are not needed for criminal prosecution,
 - Maintaining the confidentiality of student records consistent with this MOU,
 - Attending and providing testimony at school disciplinary hearings upon request,

- Being accessible to the parents of students at the school to discuss issues regarding their child,
- Informing the building principal of the arrest of students or school division employees, when permitted by law (see Va. Code § 16.1-301),
- Assisting school administrators in developing school crisis, emergency management, and response plans, reporting crime occurring at or in association with the school, and supporting threat assessment and school safety audits as appropriate, and
- Removing individuals who trespass or pose a significant disruption to the educational environment from school property.
- An SRO will share "leave time" with his or her principal, provided that the NNPD supervisor approves. The SRO will be present on school property for the entire scheduled time unless:
 - Scheduled for court, approved training, approved leave, or
 - Taking an arrestee into custody for booking and processing, or
 - An emergency arises which necessitates the SRO leaving the school's property, or
 - At the request of the Superintendent of NNPS or designee, and with the approval of the NNPD supervisor, the SRO is reassigned to another school for a specified period of time, or
 - For any other approved reason (family matters, meetings, etc.)
- The SRO will notify the principal or designee and NNPD supervisor prior to leaving school property during scheduled hours. The SRO will advise the principal of the reason and an estimated time of return, and upon return notify the principal and NNPD supervisor of their return.
- All positions will cover student school days from the first day of regularly scheduled classes in September of each year through the last day of regularly scheduled classes in June of the following year.

V. LAW-RELATED EDUCATOR

As resources permit, SROs should strive to assist with presentation for school personnel on law-related issues or topics. The Virginia Rules Program sponsored by The Office of the Attorney General of Virginia, will be utilized when requested and practical. Virginia Rules is recommended for instruction in middle school, high school, and for parents and meets the goals and objectives set forth in the Virginia Standards of Learning.

VI. SCHOOL ADMINISTRATION ROLES AND RESPONSIBILITIES

It is the responsibility of the building principal to maintain an educational environment that is safe and conducive to learning at all times. The building principal and the assistant principal(s) will facilitate effective communication between the SRO and school personnel. Regular meetings with the SRO ensure that important information about criminal activity, trends, and/or potential problems are shared in a timely manner.

School administrators and teachers are responsible for school discipline. Although SROs are expected to be familiar with the NNPS Code of Conduct, the rules of the individual schools, and their application in day-to-day practice, SROs should not be involved with the enforcement of school rules or disciplinary infractions that are not violations of law.

Pursuant to VA Code § 22.1-279.3:1, certain types of criminal activity that come to the attention of building administrators or school staff shall be reported at the first opportunity to the SRO. In case of emergency, the school shall call "911" and also notify the SRO. In a non-emergency situation, the school should notify the SRO or if the SRO is unavailable, contact the Police Department's non-emergency office number at 757-247-2500.

When the SRO brings a criminal enforcement action against a student that results in the student being charged with a crime, the building principal and/or relevant school personnel may be summoned to appear in court to provide testimony relevant to the case. In cases where the disclosure of identifiable student information is required, a subpoena or legal equivalent shall be provided to the person who is requested to provide testimony.

The building principal shall ensure that the SRO has a secured work space that is equipped with a telephone and computer that has access to the Police Department reporting programs. The building principal will also provide the SRO keys, alarm codes (to their normally assigned school), a school radio, safe school emergency procedures, and have access to the school's video camera system (this may involve another Police Department Officer assigned in the performance of their duties). The workspace must contain a lockable storage area for securing contraband recovered by the school staff or SRO. The SRO is responsible for the destruction of any illegal substances that will not be used for prosecution in accordance with the Police Department policy.

To ensure adequate communication between school staff and the SRO, the building principal shall meet with the SRO Supervisor each quarter or upon the request of either party. To the extent possible, the initial principal and SRO Supervisor meeting should be held prior to the start of the school year during which the MOU should be reviewed and discussed. Subsequent meetings should include discussions related to the performance of the SRO and resolution of any developing issues.

A school administrator or designee will conduct all school related investigations as stated in VA Code Section 22.1-279.3:1; however, if there is evidence to merit criminal charges, the SRO (or another Police Officer in the performance of their duties) will assume responsibility for the investigation. In the absence of the parent, the school administrator may observe the investigation for the purpose of protecting the school environment and the rights of the student.

VII. SRO TRAINING

The Police Department shall ensure that the SRO receives relevant training aligned with the MOU, be certified law enforcement officers who have completed (within one (1) year of being assigned as an SRO) the School Resource Office basic through the Virginia Department of Criminal Justice Services, and in consultation with the school division.

VIII. CONFIDENTIALITY OF RECORDS

The release of student records is governed by Virginia law and the Family Education Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g. In accordance to FERPA, "school officials" may access and disclose student records only as authorized by FERPA.

A. School Resource Officer (Or in their absence, another Police Officer in the performance of their duty)

For purposes of access to student records, the SRO is considered a "school official" and may be provided student information on an as-needed basis, upon request to school administration, to carry out the SRO's duties related to the school environment. The SRO will not be provided direct access to the student information system. As a general matter, the SRO's access to student records shall be limited to an administrative look-up of students in the school to which the SRO is assigned. Student information may include directory information as outlined in Newport News Public School's Policy JRA and the following Student Information System demographics: name, age/date of birth, ethnicity and race, mailing address or PO number, phone number, and class schedule. The SRO may have access to records of students who are not enrolled in his/her assigned school only when needed to carry out the SRO's duties in the school

environment as approved by the building principal. The SRO must not disclose any information from student records to any non-school personnel, including any other member of the Newport News Police Department. Student records that are required by the Newport News Police Department must be obtained by legal documentation, (i.e.-subpoena, search warrant), in accordance with FERPA.

The SRO may disclose "law enforcement records" to the Police Department and other law enforcement officials. "Law enforcement records" are those records, files, documents, and other materials that are created and maintained by the SRO for the purpose of ensuring the physical safety and security of people and property in Newport News Public Schools and/or the enforcement of any local, state, or federal law even if such records also serve the dual purpose of investigating and enforcing school disciplinary rules. Because "law enforcement records" are not student records, they are not subject to the disclosure restrictions of FERPA.

Copies of law enforcement records that are provided to school administrators for the purpose of school discipline become student records that may be maintained in student files and are subject to the disclosure restrictions of FERPA. The original law enforcement record maintained by the SRO or the Newport News Police Department Records Section is confidential, and, however, remains exempt from the disclosure restrictions of FERPA.

Any record that is created and maintained by the SRO exclusively for the purpose of a possible school disciplinary action against the student would fall outside the definition of "law enforcement records." Such records would be subject to the disclosure restrictions of FERPA. This includes surveillance videos determined to be a student education record. If video is a student education record, the SRO cannot share or re-disclose the student's records or the video without consent of the school division unless by subpoena or court order. In the event that the SRO receives a court order, a subpoena, or a search warrant, a reasonable effort should be made to notify the parent(s).

B. Newport News Police Officers

Police Officers who are not part of the SRO program may have access to student records without parent permission and consent only if:

1. The School Board has designated the information as "directory information";
2. The knowledge of student records information is needed to protect the health and safety of a student or other person in an extreme emergency which for the purpose of this MOU is defined as a situation that poses an immediate risk to the health, life, or property.
3. The School Board is presented with a search warrant, subpoena, or other valid court order requiring the release of student records to the law enforcement official or agency.

C. Directory Information

Information that is designated as "directory information" is published in School Board Policy JRA – Student Record. The information regarding students whose parents have opted-out of disclosure of such student information will be withheld. The SRO or other law enforcement officials seeking access to directory information may request the following information from the building principal: student name, student's major field of study, participation in officially recognized activities and sports, the weight and height of members of athletic teams, dates of attendance, degrees or awards received by students, and photographs.

D. Health and Safety (34 C.F.R. § 99.36)

School officials may disclose any information from student records to appropriate parties, including law enforcement officials, whose knowledge of the information is needed to protect the health or safety of a student or other individual if there is a significant and articulable threat to the health or safety of a student or other individual, considering the totality of the circumstances.

Law enforcement officials seeking access to records under the health and safety exception should contact the student's building principal and must present sufficient information for the building principal to make the determination that a health and safety exception exists.

If student information is disclosed under this exception, the student's file must contain a description of the significant threat that formed the basis for the disclosure and the parties to whom the information was disclosed.

IX. COURT ORDERS, SUBPOENAS, AND SEARCH WARRANTS

School officials will disclose student records in response to lawfully-issued court orders, subpoenas, and search warrants. FERPA requires that school officials take reasonable steps to provide notice to the parent(s) or the student (if the student is an adult) before any records are disclosed pursuant to a court order, subpoena, or search warrant. Such notice will not be provided if the court order, subpoena, or search warrant indicates that the subject of the records should not be notified. School officials will expedite law enforcement requests for records.

School officials will retain original school records and will provide copies in response to any court order, subpoena, or search warrant. If original records are required, notice should also be provided to the School Board Attorney, who will coordinate with law enforcement and the Commonwealth Attorney's office, as appropriate.

Except for situations where the court order, subpoena, or search warrant indicates the subject of the records should not be notified, a record of any disclosure under this exception will be included in the student's file.

X. INVESTIGATION AND QUESTIONING

The SRO is a certified law enforcement officer and any law enforcement action is governed by federal and Virginia law and by the Police Department policies and procedures. SROs (Or in their absence, another Newport News Police Officer in the performance of their duty) have authority to stop, question, interview, and take law enforcement action without prior authorization of the school administrator or contacting parents. However, the investigation and questioning of students during school hours or at school events should be limited to situations where the investigation is related to suspected criminal activity. Investigations and questioning of students for offenses not related to the operation of school or occurring at the school may be initiated only in situations where the delay might result in danger to other persons, flight from the jurisdiction by a person suspected of committing a crime, or destruction of evidence. In cases where a student is under the age of 18 years of age, the SRO, or in their absence, another Newport News Police Officer in the performance of their duty will make every effort to notify a school official prior to questioning. The SRO may also contact the parent prior to questioning and will have a school official remain present during questioning of the student in absence of the parent or guardian. Except when prohibited by law, a school official will make every effort to notify the parent prior to questioning and will remain present during questioning of the student in the absence of the parent or guardian.

The Building Principal shall be notified as soon as possible of any significant enforcement events. The SRO should coordinate activities so that actions between the Police Department and NNPS are cooperative and in the best interest of the school and public safety.

The SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) shall provide pertinent information regarding any major crime(s) to the SRO Supervisor consistent with the Release of Student Information provisions of this MOU. The SRO should be kept advised of all major criminal investigations that involve students from his/her school.

The SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) shall take the lead in investigation and questioning related to criminal activity. School administrators will take the lead in questioning of students related to violations of school rules, policies and code of conduct/ethics.

XI. SEARCH AND SEIZURE

School officials may conduct searches of students' property and person under their jurisdiction when reasonable suspicion exists that the search will reveal evidence that the student has violated or is violating either the law or school rules. The standard of search is reasonable suspicion.

The SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) shall not become involved in administrative (school-related) searches unless specifically requested by the school to provide security, protection, or for handling of weapon(s) or contraband. These searches must be at the direction and control of the school official. At no time shall the SRO request that an administrative search be conducted for law enforcement purposes or have the administrator act as his or her agent.

The SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) search of a student on school grounds, during school hours shall be based upon probable cause. The SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) is responsible for obtaining a search warrant before conducting the search when it is so required. The SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) may use the "stop and frisk" on school grounds during school hours only when there is reasonable suspicion that a criminal act has been committed, about to be committed, or the suspect may be armed.

Canine searches will be permitted at the request of the school superintendent, school principal or designee. The Newport News Police Department will attempt to provide the necessary resources in order to handle such request.

XII. ARREST PROCEDURES

SROs are expected to be familiar with NNPS policies and procedures, as well as school-level policies and rules. The SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) shall not handle routine infractions of school rules, but must refer any such infractions to the building Principal for administrative action. Any questions related to the enforcement of school-level policies, rules, or standard conduct should be addressed with the building administration.

The following procedures should be followed for the arrest of any student or school staff:

- The arrest of a student or NNPS employee with a warrant or petition should be coordinated through the building Principal and accomplished out of the view of the student body or after school hours, whenever practical.

- Persons whose presence on school grounds has been restricted or forbidden or whose presence is in violation of the Code of Virginia, may be dealt with as a trespasser.
- The arrest of students or staff during school hours or on school grounds without a warrant or petition should be reported to the building Principal as soon as practicable.

In addition, to any required notification of parents and legal guardians by the SRO taking a student into custody, school administrators or their designees are also responsible for an additional notification of parents and legal guardians upon a school-based arrest of their child.

XIII. PHYSICAL INTERVENTION (Physical Restraint)

SROs and school staff should act to de-escalate situations that present a clear and significant risk of harm to a person at school and may intervene for the purpose of de-escalation and reducing the risk of physical harm. SRO (Or in their absence, another Newport News Police Officer in the performance of their duty) may go hands on in situation that involve drugs, weapons, or any unruly behavior of a student or staff in a non-arrest situation in order to prevent the event from escalating. SROs and school staff should refrain from use of physical intervention unless there is clear threat of bodily harm. If physical intervention is necessary, that rises to arrest or any reportable "use of force", the action should be reported promptly to the school administrator and SRO supervisor. Additionally, the School Division and Police Department shall coordinate to ensure the student's parents are notified as soon as practical.

XIV. CONCLUSION

This Memorandum of Understanding represents mutually agreed-upon goals and objectives of the Newport News Police Department and Newport News Public Schools. This MOU shall remain in effect until either party withdraws from the MOU. Either the Police Department or NNPS may withdraw from this MOU upon providing the other party with a 30-day written notice. The MOU shall be reviewed annually and amended as necessary upon written agreement of both parties. This MOU shall not be construed to create any right or claim on the part of any person or entity that is not a party to this MOU. This MOU rescinds and supersedes all previous agreements between the parties relating to the provision of SROs.

IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the day and year first above written.

CITY OF NEWPORT NEWS

Cynthia S. Ruff
City Manager

8/30/19

APPROVED AS TO CONTENT:

Steve R. Drew
Chief of Police

8/29/19
Date

ATTEST:

Shabel Washington Jenkins
Clerk

9/04/2019
Date

APPROVED AS TO FORM:

Rob E. Ebersole
Deputy City Attorney

8-29-19
Date

NEWPORT NEWS PUBLIC SCHOOLS

[Signature]
Superintendent NNPS

9/10/2019
Date

Nancy D. Hunter
Chair, Newport News School Board

9/10/19
Date