

MEMORANDUM OF UNDERSTANDING

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MEMORANDUM OF UNDERSTANDING

This agreement is dated this 5th day of July, 2016 between the Kensington Police Department and the Kensington School District (the "District"). It is the intention of the Kensington Police Department and the District to work in a joint cooperative effort to provide a safe and healthy school environment for the students, staffs, and visitors. We intend to do this in compliance with New Hampshire R.S.A. 193-D, Safe School Zone, as amended.

Communication and sharing of information is the initiation of any cooperative effort. As required by law, it is agreed that every school employee who has witnessed, or who has information from the victim of an act of theft, destruction, or violence in a Safe School Zone shall report such act in writing immediately to a supervisor as required by RSA 193-D:4. A supervisor receiving such report shall *immediately* forward the information to the school principal who shall file it with the Kensington Police Department. The report shall be made by the Principal by telephone to the Kensington Police Department *immediately* and shall be followed within 48 hours by a report in writing.

The District agrees to err in the direction of filing a report when there is any question that the event is reportable under RSA 193-D or this Agreement. Law enforcement and school officials can then jointly determine the best action to be taken.

ADMINISTRATIVE RESPONSIBILITY

In the event that the principal is unavailable, the District shall have in place administrative procedures for other members of the school staff to be charged with the reporting responsibility. However, it shall be the ongoing duty of any reporting supervisor to ensure that the required report is filed with the police department.

CONFIDENTIALITY

As a result of New Hampshire Revised Statutes Annotated. (N.H. R.S.A). 193-D:7, school employees are relieved of concerns regarding confidentiality. The statute states:

Notwithstanding any other provision of law, it shall be permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft, destruction or violence in a Safe School Zone regarding the identity of any juvenile, police records relating to a juvenile or other relevant information when such information reasonably relates to delinquency or criminal conduct suspected delinquency or suspected criminal conduct, or any conduct which would classify a pupil as a child in need of services under RSA 169-D or a child in need of protection under RSA 169-C.

The oral and written reports required by this Agreement should include, to the extent possible:

- (a) Identification of the act of theft, destruction or violence as defined in RSA 193-D:1 that was allegedly committed.
- (b) The name and address, if known, of any witness to the act of theft, destruction, or violence in a Safe School Zone.
- (c) The name and home address if known, of any person suspected of committing an act of theft, destruction, or violence in a Safe School Zone.

The written report required by this Agreement shall be waived by law enforcement officials when there is a law enforcement response at the time of the incident that results in a written police report.

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REPORTABLE ACTS

"Acts of theft, destruction, or violence" shall mean acts set forth in the following, regardless of the age of perpetrator, and shall be reported as required above:

- (a) Homicide under RSA 630.
Any death shall be immediately reported to law enforcement officials regardless of suspected cause.
- (b) (1) Any first or second degree assault under RSA 631.
(2) Any simple assault under RSA 631:2-a.
This will include any injury to a person caused by another person. Police investigation may reveal that not all of these incidents constitute an actual crime. However, reporting will allow a police investigation to be conducted.
Simple assault may result in some injuries. Simple assault also includes knowingly having unprivileged physical contact with another person. The parties recognize that this can be very minor contact and that Principals will consider the School Disciplinary Policy when making a determination about whether or not to file a Safe School Zone Offense Report.
- (c) Any felonious or aggravated felonious sexual assault under RSA 632-A.
All acts of sexual penetration occurring within Safe School Zone will be reported. Any sexual contact with a person who is under 13 years of age will be reported.
- (d) Criminal Mischief under RSA 634:2.
This includes purposely or recklessly damaging the property of another, including school property.
- (e) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159.
Due to the tremendous potential for serious injury or death when firearms are present, any person in possession of a firearm within Safe School Zone will be reported. The exception will be recognized Law Enforcement personnel. Some of those in possession that are reported may not be in violation of the law, but should be reported, nonetheless.
- (f) Arson under RSA 634:1.
Any person who knowingly starts any fire or causes any explosion that results in injury, damage to the property of another, or is done with intentional disregard for the safety of others, is included in this section.
- (g) Burglary under RSA 635.
Any person who enters a building or separately secured section of a building, with a purpose to commit a crime inside.
- (h) Robbery under RSA 636.
This includes any theft that is accomplished by the use of physical force or the threat of imminent use of force.
- (i) Theft under RSA 637.
This is the obtaining or exercising of unauthorized control over the property of another.
- (j) Illegal sale or possession of a controlled drug under RSA 318-B.
Reports will be made on any substance, other than a food, that affects the way your mind and body work, excepting legally prescribed medications, which should be recorded with the appropriate administrative school personnel.
- (k) Criminal Threatening under RSA 631:4.

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The following terms, as defined in RSA 193-D:1 apply to this memorandum:

“**Safe School Zone**” means an area inclusive of any school property or school buses.

“**School**” means any public or private elementary, secondary, or secondary vocational-technical school in New Hampshire. It shall not include home schools under RSA 193-A.

“**School Employee**” means any school administrator, teacher, or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing or performing continuing contract services for any public or private school, school district, school department, or school administrative unit.

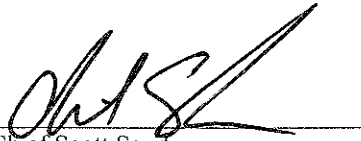
“**School property**” means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.

“**School purposes**” means school-sponsored programs, including but not limited to educational or extra-curricular activities.

Nothing contained in this memorandum is intended to limit the events that may be reported to the police department or to limit District employees from requesting police assistance on matters not referred to in this memorandum.

TRAINING

The Kensington Police Department and the District agree to provide their employees with ongoing training relative to this memorandum of understanding, its purpose and anticipated results. The parties further agree to maintain regular and open communication to evaluate the effect of this memorandum and suggest improvements and adjustments that may be necessary.



Chief Scott Sanders
Kensington Police Department

7/5/16
Date



Superintendent Michael Morgan
SAU 16 / Kensington School District

7/1/16
Date

RESPONSE PLAN FOR CRIMINAL INCIDENTS

A. CONTROLLED DRUGS AND SUBSTANCES

Possession for Sale (Including Paraphernalia)

This includes all illegal and controlled substances such as marijuana, cocaine, opiates, and related substances. Drug paraphernalia is any instrument used in the packaging, processing, weighing or ingesting of any controlled substance. This includes such things as syringes, smoking pipes, and scales.

Response Guidelines: Any student observed possessing, using or selling any of the above-described substances or paraphernalia shall be immediately brought to the principal. Any substance observed shall be immediately seized and put into a clean envelope, signed and dated, and immediately turned over to the police. The principal shall call the police in every instance where drugs or paraphernalia are discovered. NOTE: No school employee has the lawful authority to destroy any seized substance. Even the police will eventually need to obtain a court order in order to destroy the drugs. The parent(s)/guardian(s) shall be notified.

Odor of Marijuana

This would include a situation where a school employee detects an obvious odor of marijuana from the clothing or person of a specific individual student. In this instance, the student is to be immediately segregated and monitored while being brought to the attention of the principal or assistant principal. The principal shall question the student and search the student within legal limits. The police and parent(s)/guardian(s) shall be called.

Student Appears to be Under the Influence of Drugs or Alcohol

Response Guidelines: The student shall be brought to the attention of the principal. The principal shall question the student and direct that medical attention be sought as appropriate. Parent(s)/guardian(s) shall be called if there is any suspicion of drug or alcohol use. The police shall be called at the discretion of the principal.

B. THEFT OF PROPERTY/RELATED ISSUES

Robbery

Under New Hampshire law, robbery is a theft by force or by threat of force. It is a serious crime and is always a felony when committed.

Response Guidelines: The principal shall be immediately notified and a police response shall be requested as soon as possible. The parent(s)/guardian(s) shall be notified.

Theft

Under New Hampshire law, theft is the unauthorized taking of someone's property "with a purpose to deprive the owner."

Response Guidelines: Theft shall be reported to the principal. Technically, any theft committed on school property is reportable to the police. For practical purposes, however, school personnel should handle thefts involving an insignificant value or theft involving extremely young children. The parent(s)/guardian(s) shall be notified. As a general rule, thefts will not be reported to the Police Department in the following situations:

- The value of the property is less than \$50 and there is no suspect; or
- The students are in third grade or lower.

Burglary

Burglary is the unlawful entry of a business or home to commit any crime. Most burglaries involving the School Department will result from the entry of a school building for the purpose of committing theft or vandalism.

Response Guidelines: Burglary shall always be reported to the Principal immediately after being discovered. School personnel shall take care not to clean or otherwise disturb the scene of the crime prior to the arrival of the police. The Principal shall call the Police Department immediately upon being notified of a burglary. The parent(s)/guardian(s) shall be notified.

Vandalism (aka Criminal Mischief)

Vandalism is the intentional damaging or destruction of school property or the property of another. Vandalism can be considered to have occurred if there is a cost incurred in cleaning or repairing an item. For example, if the walls of the building are marked with spray paint or a marker and require special cleaning or repairing, then the property is considered damaged under the law.

Response Guidelines: Technically, all criminal mischief that occurs in a Safe School Zone is reportable to the police. In practice, some discretion must be used for extremely petty cases. For example, it would not be appropriate to contact the police in the case of a student writing an initial in ink on his or her desk.

In general, any damage in excess of \$50 shall be reported to the police by requesting a police response and investigation, or by filing a written report within 48 hours. The method of reporting will be at the discretion of the principal. However, in any case where a suspect is identified, the police shall be called to handle the case after a preliminary inquiry by school administrators. The parent(s)/guardian(s) shall be notified.

C. ARSON

A person has committed arson if he/she intentionally starts a fire or causes an explosion, which damaged someone's property.

Response Guidelines: Any employee discovering a fire shall immediately take steps to protect life and property and contact the Fire Department as appropriate. In cases where arson is a possibility, the Police Department shall be notified by a school administrator if the police are not already involved. The parent(s)/guardian(s) shall be notified.

False Fire Alarms

This would include such things as a student pulling an alarm station or otherwise causing a false report.

Response Guidelines: The Police and Fire Departments shall be contacted by the principal, if they have not already arrived to conduct an investigation. The parent(s)/guardian(s) shall be notified.

D. WEAPONS RELATED INCIDENTS

Weapons

Under the law, a firearm is a weapon capable of discharging a projectile as a result of an explosion. A BB gun is not a firearm. A dangerous weapon would be considered any blackjack, stiletto, switch knife (spring loaded blade), dagger (blade sharpened on both sides), sling shot, metallic knuckles or dirk knife or any other object when used as such.

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Response Guidelines: Any student possessing any of the above items shall be brought immediately to the principal and the weapon shall immediately be seized. The principal shall request a police response in every situation. Possession of any of the above weapons is a misdemeanor under New Hampshire law without the proper authorization or permit. The parent(s)/guardian(s) shall be notified.

Under New Hampshire law, a BB gun cannot be possessed by a person under the age of 18 except in his/her own home or under parental supervision.

Response Guidelines: The student shall be brought to the attention of the principal and the item described above shall be seized. The school administrator shall call the police at his or her discretion. The parent(s)/guardian(s) shall be notified.

Use or Possession of Fireworks

Response Guidelines: Absent any injury or extenuating circumstance, administrative action should be conducted at the discretion of the school administration and no police response need be requested unless actually used. Any use shall be reported to the Police Department. The parent(s)/guardian(s) shall be notified.

E. ASSAULT AND RELATED OFFENSES**Sexual Assault Or Physical Abuse**

Under New Hampshire law, it is a serious offense for any school employee to fail to report any suspected case of physical or sexual abuse of a child.

Response Guidelines: Suspected incidents of sexual abuse or physical abuse or any disclosure thereof, shall immediately be reported to the school administration. The administrator shall ensure that the requirements of RSA 193-D:4 for handling these types of cases is followed. The parent(s)/guardian(s) shall be notified.

Assault

Assault is any unprivileged physical contact of another. Assault is a misdemeanor unless serious physical-injury results. The New Hampshire courts have considered an assault a felony when an individual has received a scratched eyeball that caused blurred vision. Distinguishing when an assault becomes a felony is important for school personnel because any felony assault shall be reported to the Police Department by state law.

Response Guidelines: Any case of assault shall be brought to the attention of the school administration. If the assault results in a victim requiring any degree of medical attention (to include stitches or transporting to the hospital), then the Police Department shall always be contacted by the school administration. The parent(s)/guardian(s) shall be notified.

Misdemeanor assaults (no serious injury) committed by high school or middle school students shall be reported to the administration. The administrator shall conduct an initial inquiry and contact the police immediately in cases where the assault involved one or more of the following:

- The assault was very aggressive or violent in nature (as in driving someone into lockers or slamming the victim to the floor).
- A strike to the head or groin or other sensitive area.
- Repeated punches or kicks.
- Offender with a past record of violence or aggressive behavior.

Misdemeanor assaults committed at the elementary school level shall be reported based on the discretion

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of the school administrator. The administrator will take into account such factors as the age of the students, past problems, and the level of aggressiveness involved in the accident.

If, after investigation by school officials, it is determined that the incident will be handled by school officials and not reported by school officials to the police, parent(s)/guardian(s) of the reporting person have the option to report the case to local law enforcement on their own.

Fight By Mutual Consent

A fight that is undertaken by the mutual consent of both parties involved is a violation of the assault statutes in New Hampshire.

Response Guidelines: School employees shall notify the administration of any fight that occurs between two or more students, two or more school employees, or a combination of school employees and students. The school administration shall request a police response in any case where a participant in the fight received serious injury or was transported to the hospital. The parent(s)/guardian(s) shall be notified.

Threatening

Threatening includes any behavior that purposely places or attempts to place another in fear of imminent bodily injury or physical contact.

Response Guidelines: Any case of threatening shall be brought to the attention of the school administration. When threatening behavior occurs of such seriousness that another student's continued presence in school is jeopardized, then the Police Department shall be contacted by the school administration. The parent(s)/guardian(s) shall be notified.

Law Reference:

Appendix Reference:

Date Adopted: September 13, 2006

Last Review/Revision Date: June 8, 2016