

MEMORANDUM OF UNDERSTANDING

Understanding between the Hampden-Wilbraham School District, the Hampden Police Department, Wilbraham Police Department and the Hampden County District Attorney's Office

This document recognizes the formal working relationships agreed upon by participating agencies for the purpose of providing a safe and violence-free educational setting.

I. GENERAL POLICIES

- A. The Hampden-Wilbraham School District, the Hampden Police Department, Wilbraham Police Department and Hampden County District Attorney's Office agree to develop and coordinate their response to violent, delinquent or criminal acts by students, including possession or use of weapons and alcohol and other drug use, that occur on school premises, school buses, or at school-related events. [Additionally, the policies and procedures developed will pertain to non-students and other visitors on school premises or at school-related events.] To promote a safe educational environment, this cooperative effort between the school administration and law enforcement agencies supports "zero tolerance" for violence, weapons, drugs, harassment and civil rights violations, in accordance with Safe and Drug Free Schools and Communities Act.

M.G.L. Chapter 71, Section 37H, requires each school district to have a Code of Conduct contained in student handbooks, setting forth, among other things, standards and procedures to assure school building security and safety of students and school personnel. The code of conduct should include standards and procedures for suspension and expulsion of students pertaining to disciplinary measures and due process rights in cases involving the possession or use of illegal substances or weapons, violations of criminal law and the school's discipline code. In addition, reference to this Memorandum should be made in these handbooks.

- B. Participating agencies agree, within the statutory authority of its agency, that every effort will be made to share information, so as to provide a safe and violence-free educational setting.

II. REPORTING PROCESS BETWEEN THE SCHOOL DEPARTMENT AND THE DEPARTMENT OF CHILDREN and FAMILIES (DCF)

Under **M.G.L. Ch. 119, Section 51A**, school personnel (mandated reporters) who, in their professional capacity, have reasonable cause to believe that a child under the age of eighteen years is suffering physical or emotional injury resulting from abuse, inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, (including sexual abuse) or from neglect, shall report such condition to the Department of Children and Families. *"Reasonable cause to believe" means known or suspected instances of child abuse or neglect, regardless of whether the person or persons responsible for the abuse or neglect was in the position of caretaker.*

Included within this definition are incidents of abuse by other students, as well as school personnel. If the incident involves criminal conduct, including physical abuse, violation of a restraining order, assault and battery, indecent assault and battery, rape, forcible rape of a child under 16 or rape and abuse of a child under age 16 (so-called "statutory rape"), school officials shall also report the incident to the police.

During the 51A investigation (Section 51B) school personnel are required to disclose to DCF any information that such personnel determine is relevant to the investigation, including student record information. School staff are expected to cooperate with DCF during this investigation, especially when circumstances of the case necessitate interviewing the child at school. It is suggested that such interviews be conducted in the presence of a teacher or other school personnel, without prior notification to parents or guardians if notice could put the child at further risk.

III. REPORTING PROCESS BETWEEN THE SCHOOL DEPARTMENT AND POLICE

It is understood by the parties that school officials are not agents of the police or the District Attorney's office and that the District Attorney's office and police are not agents of school officials.

School officials retain their sole prerogative to impose any disciplinary sanctions for infractions of school rules and policies in addition to any police involvement or investigation that may be warranted.

The school principals or their designee are responsible for reporting criminal activity to the police department to ensure a coordinated response. For any life-threatening or emergency situations, calls should be made to 911. Other calls needing an immediate (but non-emergency) response should go to the main police department. Follow-up and on-going communication will be provided.

When the school has reported an incident to the police, the police will be responsible for making the decision as to the course of the criminal or delinquency investigation.

- A. In pursuit of the goals of **M.G.L. Chapter 71 Section 37O(d)**, the Principal or designee shall provide immediate notification to the local law enforcement agency if there is a reasonable basis to believe that criminal charges may be pursued against a perpetrator. The Principal or designee of the school shall inform the student and his/her parent or guardian that, upon report, the police may conduct an investigation independent of school discipline. The principal or designee shall also report to the police the existence of any physical evidence related to the incident. All contraband (e.g., drugs, alcohol, firearms, dangerous weapons and stolen goods) or any other physical or documentary evidence found by the school shall be immediately shown to and made available to the responding police department.
- B. Any teacher or other school employee who has witnessed or become aware that a student has committed a violation of the school's discipline code or an act where criminal charges may be pursued against a student which was committed on school premises, school buses or at school related events shall report such incident to the Principal or designee pursuant to the school's discipline reporting procedures.
- C. In addition, the Principal or designee shall comply with **M.G.L. Chapter 71, Section 37L**, concerning any incident involving a student's possession or use of a dangerous weapon on school premises, regardless of whether it occurred during school hours, and whether or not the student has been excluded from school. Consistent with the law, the Superintendent shall file copies of the "weapons" report with the police chief, the Department of Children and Families and the local school committee.
- D. Search and Seizure

It is the policy of the Hampden-Wilbraham School District to subject a student to a search of his or her person and/or personal possessions, including clothing, gym bag, purse, backpack or motor vehicle, if the authorized school personnel have, independent of information provided by the police, a reasonable suspicion to believe that such student is carrying or concealing material, the possession of which is prohibited by federal, state or local law, or by the provisions of the school discipline code (e.g., alcohol, drugs, illegal substances or weapons, or any other object which may result in physical injury or harm to students on the school grounds or in the school building). Lockers and desks used by students remain the property of the school and may be opened without notice at any time as part of non-investigatory school practices. The contents of personal items found in desks and lockers may be searched, as provided by law. The Principal(s) or designee shall include this practice in the student handbook or inform students in writing at the beginning of each school year. If material, the possession of which is prohibited by federal, state or local law, or by the provisions of the school discipline code is discovered and or seized, the principal or designee shall keep a record of such search and seizure, which should include the date, the reason(s) for the search, the witnesses to the search, what or who was searched, and what was found. If contraband or evidence of a crime is found, the police shall be notified at once.

- E. The Police will communicate regularly with the school administration to share information with the school on felony arrests and other community concerns that affect the safety and general welfare of all students. When requested, the police will provide to the school administration a copy of the daily police log. The appropriate police department designated liaison will inform the appropriate school designated liaison, subject to applicable statutes and regulations governing confidentiality, specifically including *M.G.L. Chapter 12, Section 32, Chapters 71, sections 37H and 37H1/2*.

The police and/or the District Attorney's Office shall provide notice to the school when a student:

- 1) Has been charged or convicted of a felony offense;
- 2) Has been charged or convicted as a youthful offender; or
- 3) Has been charged or adjudicated as a delinquency where the underlying offense is a felony.

If requested by the Superintendent, the police may provide notice regarding felony offenses of a transfer student in order to assess and evaluate the background of the transfer student.

The Superintendent, principals or designees who receive confidential delinquent or criminal information shall be CORI certified.

The school agrees to notify the police department when suspending a student under the provisions of *M.G.L. Chapter 71, Section 37H½*, if the suspension is based on information received by the school of a pending felony charge or felony disposition.

IV. ROLE OF THE HAMPDEN COUNTY DISTRICT ATTORNEY

The Hampden County District Attorney will maintain a Community Based Juvenile Justice Program as mandated by and included in *M.G.L., Chapter 12, Section 32, an Act Relative to Community Based Juvenile Justice Programs*, in participation with the Hampden-Wilbraham School District in providing a safe environment for learning, in accordance with the legislative mandate set forth in *M.G.L. c. 71, sections 37H and 37H1/2*.

Community Based Juvenile Justice Meetings/School Safety Meetings may be conducted, under the authority of the District Attorney, to allow the undersigned to discuss and assess specific events or particular individuals whose conduct may pose a threat to the safety of the school community.

Any information shared by police or the Hampden County District Attorney's Office and provided to any school or other agency, employee or representative may only be

used for purposes described in *M.G.L., Chapter 12, Section 32* and in accordance with the legislative mandates of *M.G.L. Chapter 71, sections 37H and 37H1/2*.

The Hampden County District Attorney agrees to provide training to his 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.

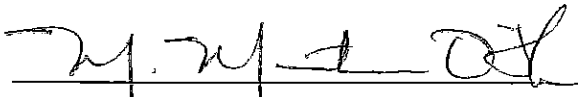
V. PROSECUTORIAL ALTERNATIVES

JUVENILE DIVERSION

When appropriate, first time offenders under age 17 who commit minor misdemeanors will be referred to the Hampden County District Attorney's Juvenile Diversion Program. The Juvenile Diversion Program is an alternative to the court system. The District Attorney's Office will determine whether such offender will be offered this alternative. Participating youth may be required to attend and complete counseling/education programs, perform community service and, when applicable, pay restitution. Youth who successfully complete the Juvenile Diversion Program prior to arraignment may have no court record. Those cases deemed not appropriate for Juvenile Diversion will be prosecuted through the Juvenile Justice System.

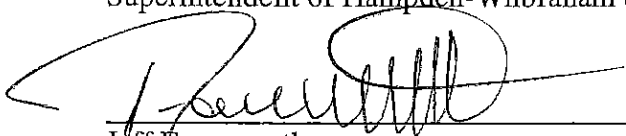
TRUANCY PREVENTION

Truancy is a problem that has long-term affects on children, families and the community. The District Attorney's Office agrees to work with the Hampden-Wilbraham School District in order to reduce truancy among its students.




M. Martin O'Shea
Superintendent of Hampden-Wilbraham School District

8/24/11
Date



Jeff Farnsworth
Chief of Police, Hampden

8/24/11
Date



Allen Stratton
Chief of Police, Wilbraham

08/24/11
Date



Mark G. Mastroianni
Hampden County District Attorney

8/25/11
Date

