

**COMMONWEALTH OF PENNSYLVANIA
OFFICE OF SAFE SCHOOLS ADVOCATE**

ANNUAL REPORT FOR 2014-15 and 2015-16

**Prepared by the Office of Safe Schools Advocate
Pennsylvania Commission on Crime and Delinquency**

January 30, 2016

Mr. Derin Myers
Acting Executive Director
Pennsylvania Commission on Crime and Delinquency
3101 North Front Street
Harrisburg, Pennsylvania 17110

Dear Mr. Myers:

Enclosed please find the annual report of the Office of Safe Schools Advocate for the 2014-15 and 2015-16 fiscal years. By statute, the report is to be submitted to the Superintendent for the School District of Philadelphia, the Secretary of Education for the Commonwealth of Pennsylvania and the chairpersons of the House and Senate Education Committees.

The report reflects the activities of the Office of Safe Schools Advocate for the prior fiscal year and any recommendations for remedial legislation, regulations, or District administrative reforms based upon the reported data provided by the School District of Philadelphia to the Pennsylvania Department of Education, the analysis of the reported data provided by the School District of Philadelphia and the observations of the Advocate from August 1, 2014 through June 30, 2016.

I am available to discuss the findings and recommendations contained in this report at your convenience.

Respectfully submitted,

Office of Safe Schools Advocate
Pennsylvania Commission on Crime and Delinquency

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I. Introduction

The Office of Safe Schools Advocate (“OSSA”) for the School District of Philadelphia (“SDP” or “District”) was originally established under the Pennsylvania Department of Education by virtue of Act 91 of 2000 (“the Act”) 24 P.S. 13-§1310 A. Pursuant to Act 24 of 2011, OSSA was reassigned to be housed under the Pennsylvania Commission on Crime and Delinquency (“PCCD”). Per the Act, OSSA powers and duties are defined (in part) as follows:

- A. To monitor, review, and analyze the district’s reporting practices to OSSA of incidents involving acts of violence; possession of a weapon; possession, use or sale of controlled substances as defined in “The Controlled Substance, Drug, Device and Cosmetic Act;” or possession, use or sale of alcohol or tobacco by any person on school property.
- B. To monitor the school district’s compliance with the procedures set forth in the memorandum of understanding (“MOU”) with the appropriate police department regarding incidents involving acts of violence and possession of weapons.¹
- C. To obtain documentation, on a weekly basis during those times when school is in session, of all written or verbal contacts by school district personnel with the appropriate police department consistent with the requirements of the MOU.
- D. To monitor the District’s compliance with the mandatory expulsion requirements of Section 1317.2 (“Act 26”).²
- E. To receive inquiries from school staff, parents, or guardians of students who are victims of acts of violence on school property.
- F. To establish a program to assure extensive and continuing public awareness regarding the role of the Advocate on behalf of victims of acts of violence on school property, which may include the mailing of information to the parents or guardians of students in the school district or other forms of communication.
- G. To review and analyze Federal and State statutes which may be an impediment to school safety and the imposition of discipline for the commission of acts of violence on school property, and to prepare reports making recommendations for changes to the statutes which would promote school safety and facilitate effective and expedient disciplinary action.

- H. To review and analyze court decisions applicable to the District's disciplinary process and procedures, to make recommendations to the school district regarding any negative impact these decisions have upon the effective maintenance of school safety and to make recommendations relating to the existing provisions of consent decrees.
- I. To provide assistance and advice, including information on support services provided by victim assistance offices of the appropriate district attorney and through local community-based victim service agencies.

OSSA is located in the Education Center for the School District of Philadelphia and, in addition to the Advocate, is staffed by a legal assistant and an administrative assistant. Kelley B. Hodge, Esq. was the Safe Schools Advocate ("the Advocate") from December, 2011 until August, 2015. Roi Ligon Jr. was appointed as the Safe Schools Advocate in October, 2016.

The 2014-2015 and 2015-2016 school years were the third and fourth full academic years under the leadership of district Superintendent William Hite, Jr., Ed.D, who joined the district in September 2012. Dr. Hite remained clear in his commitment to developing a plan of action for the district that has as one of its key foundational goals, improving the quality of schools by promoting safety and a positive school climate.

The goal of OSSA continues to be strengthening a collaborative relationship with the school administration with the hope of also being able to facilitate the implementation of the District's goal for a positive and safe learning environment for all students.

As in the previous years, OSSA was able to learn more about the inner workings of the School District and gain a more comprehensive understanding of the types of incidents and the types of community concerns that were at the forefront of the minds of parents, guardians and teachers. It is based on these various observations, communications, data analysis and overall working relationship with the District and the Philadelphia community that the Advocate authors this report.

II. Executive Summary

OSSA is required by law to prepare an annual report concerning the activities of the office for the prior fiscal year and to analyze the school violence data provided by the Philadelphia School District to the Pennsylvania Department of Education and to OSSA throughout the year. The report is required to be submitted to the Superintendent of the School District of Philadelphia, the Pennsylvania Secretary of Education, the Executive Director for the Pennsylvania Commission on Crime and Delinquency, the Chairperson for the Senate Committee on Education and the Chairperson for the House of Representatives Committee on Education.³

OSSA is also authorized to make recommendations for remedial legislation or other reforms which would promote school safety and facilitate effective and expedient disciplinary action.⁴ The main findings of our report are listed below:

- A. **Increased Communication.** Similar to the Advocate’s conclusions in past annual reports, in order for the District to significantly reduce school violence, it must continue to improve communication. This recommendation is listed as a number one priority because it is essential to the success of any safety strategies being implemented. Transparency, trust and accountability need to be placed at the forefront and be the three prongs that shape all decisions the District makes regarding violence, safety and school climate. In doing so, the District will consequently elevate its reputation and effectiveness, all of which will make it easier for the School District to do what is required—teach children.
- B. **Analysis of District Policies and Data.** District policies and procedures relating to the reporting and response to school-based incidents of violence should be regularly reviewed and compared with annual data. Due to the dynamic nature of climate and culture, policies must be routinely reviewed, and there must be a willingness to adapt policies to accommodate technological and social changes.
- C. **Consistency in Level of Response.** All levels of the District must provide a consistent response to school violence while promoting proven prevention and restorative justice techniques. Continued training on best practices regarding all aspects of school violence and promoting mentoring relationships are essential for District personnel.
- D. **Data Collection and Internal Coding.** Data collection functions, such as coding incidents of violence, should be a standardized process that is instituted uniformly throughout the District. Discrepancies in how certain crimes are reported is affecting the overall accuracy of the District’s reporting.

This issue has been noted in the previous three annual reports issued by the Advocate.

- E. **Weapon Violations.** Reporting weapon violations to the police, per the District's MOU, should be standard practice. Educators and administrators must be trained that they have no discretion in reporting these types of crimes to law enforcement.

- F. **Victim-Centered Approach.** Educators and administrators alike should be informed and aware as to the function of OSSA and their responsibilities under the Act. A victim-centered approach should be a focal point in evaluating whether a hearing or mediation process is beneficial and effective in achieving the goal of reducing future incidents and assessing accountability for negative behavior. While the Advocate noticed a promising increase in the inclusion of victims in disciplinary hearings, there remains a continued need to promote a victim-centered approach in addressing violent incidents at every level of the disciplinary process.

III. Overview of OSSA Functions

Office of Safe Schools Advocate Daily Operations

During the 2014-15 and the 2015-2016 school years, OSSA continued to take deliberate steps to observe, learn, and participate in the day-to-day operations of the District’s disciplinary system. On a daily basis, OSSA reviewed approximately 30 to 50 individual incidents pulled from the District’s Serious Incident Management System (“SIMS”) and forwarded to us by the School District. SIMS is the database used by the District to collect and report incident data. The grid below sets out the data obtained through SIMS.

The column titled “Victims/Complainants” includes victims, complainants and witnesses, without differentiation, that are sent to OSSA from the District’s SIMS database. The database application that OSSA uses does not have the capability to automatically separate the victims from the complainants and witnesses associated with each incident. The inability to make this separation accounts for the reason that number is larger in the “Victim/Complainants” column than in the “Incident Reviewed” column. From the list of victim/complainants sent to OSSA, we were able to identify actual victims, and send them letters to advise them of their right to receive assistance from OSSA. The column titled “Letters” sets out the number of letters that OSSA sent to victims, excluding School Police Officers, victims of unintentional injuries, and victims of morals offense⁵ incidents, during the 2014-15 and the 2015-16 school years.⁶

School Year	Incidents Reviewed	Victims/Complainants	Letters
2014-15	5559	6575	1577
2015-16	5601	6672	1629

In addition to receiving daily incident reports through SIMS, OSSA continued to be accessible by telephone, fax, email and walk-ins as set out in the grid below.

Year	Calls	E-mails	Drop In	Fax/Letter/Other
2014-15	645	13	94	1
2015-16	457	10	51	1

OSSA opened case files on incidents, with most files being opened based on the name of a reported victim. OSSA also created files where there was no direct victim named in the incident, but where the incident created a heightened level of concern for the school community as a whole. In these instances, the Advocate would make direct contact with the school principal or with an executive team administrator to notify them of the factual circumstances and

the need for their response or attention. If there was a pattern of behavior in a school, OSSA provided information on those incidents to the Chief of Student Support Services, so they could be given the appropriate level of attention and responsiveness. From September 1, 2014 through June 30, 2015, OSSA did intake of, and assisted, 211 individual victims from District and Charter Schools. From September 1, 2015 through June 30, 2016, OSSA did intake of, and assisted, 126 individual victims from District and Charter Schools. These were incidents reported by parents/guardians or school personnel.

OSSA continued to provide signage, posters and brochures to schools and victims services organizations to promote the availability of the office as a resource. Additionally, OSSA continued to have active communication with members of City and Commonwealth legislative bodies focusing on school safety and violence prevention. The support received from these bodies and their communication continues to be a significant factor in OSSA having a direct impact on combating violence and enhancing safety in the Philadelphia school community.

Cases are opened by OSSA through phone calls, e-mails and personal in-office contact. Most case files are opened based on a named victim being identified in the incident. OSSA would also create files that were linked to a school in those instances where there was no direct victim contact but still a heightened level of concern for the school community as a whole. As a result, in these instances, the Advocate would make direct contact with the school principal or with an executive team administrator to notify them of the factual circumstances and the need for their response or attention. The Advocate wanted to make sure that, if there was a pattern of behavior in a school, the office provided those incidents to the Chief of Student Support Services, so they could be given the appropriate level of attention and responsiveness. From September 1, 2014 through June 30, 2015, OSSA did intake of, and assisted, 211 individual victims, from District and Charter Schools, and reported by parents/guardians or school personnel. From September 1, 2015 through June 30, 2016, OSSA did intake of, and assisted, 126 individual victims, from District and Charter Schools, and reported by parents/guardians or school personnel. Intakes are phone calls, emails, or in-office encounters that OSSA receives and result with a contact form being completed, separate from the incidents reviewed daily from SIMS.

OSSA increased its use of its website in 2014-15 and 2015-2016 to provide current information to the public and highlight national victim centered awareness campaigns, such as National Teen Dating Violence Awareness Month and Bullying Awareness Month.

2014-2015 Disciplinary and Expulsion Hearings

The Office of Student Rights and Responsibilities (“OSRR”) conducts disciplinary hearings for a wide array of school-based incidents of violence or for possession and/or distribution of controlled substances. Hearings are scheduled at the convenience of the District. OSSR provides notice of scheduling to OSSA.

OSSA continued to attend disciplinary and expulsion hearings, whenever possible, in 2014-2015 and 2015-2016. Hearings are scheduled at the convenience of the District. There are a

total of four hearing officers who hear cases simultaneously. OSSA does not have the staff resources to attend every hearing, consequently, OSSA's attendance during hearings is determined by a triaged system. Incidents requiring the immediate attention of OSSA are listed below in order of priority to attend.

- Victim contacted OSSA directly
- OSRR notified OSSA that victim would attend, or was present for, the hearing
- Hearings for defendants who brandished weapons
- Hearings for defendants who possessed, or were caught at scan with, loaded firearm
- Hearings where the defendant is charged with possession with intent to distribute, if the incident is coded as such or if incident report could be interpreted that way
- Hearings for defendants with substantial history of reported incidents
- Hearings for incidents where the facts were such that the matter warranted the attention of OSSA, regardless of the existence of a victim, or whether that victim contacted OSSA

OSSA was present for, or participated in, approximately 125 disciplinary hearings during the 2014-15 school year. These hearings were primarily for cases that had victims, but there were a significant number of hearings for weapons and drug offenses which are of equal statutory importance for OSSA. Additionally, based on the nature of the offense and the harm that resulted, certain offenses were referred by the disciplinary hearing officer for an expulsion hearing. OSSA was present or participated in 32 expulsion hearings from September 2014 through June 30, 2015.

Based on the reported data from the District's Office of Student Rights and Responsibilities there were 854 disciplinary hearings held in 2014-15. Of those, 527 students received disciplinary transfers, 194 students received lateral transfers, and 84 received a behavioral contract. Of the 854 hearings held, 416 students were referred to the expulsion review committee.

The expulsion review committee is an internal body of members of the School District of Philadelphia's central office administration who discuss and evaluate a student's past academic history and the facts of the potentially expellable offense. The committee scores the information based on a self-designed rubric developed in an effort to maintain consistency and fairness in the expulsion process.

A total of 42 expulsion hearings were held during the 2014-15 school year, from 416 referrals. Of the 42, 31 students were expelled either temporarily or permanently from the District.⁷

2015-2016 Disciplinary and Expulsion Hearings

OSSA was present for, or participated in, 161 disciplinary hearings during the 2015-16 school year, and was present at, or participated in, 23 expulsion hearings from September 2015 through June 30, 2016.

Based on the reported data from the District's Office of Student Rights and Responsibilities, there were 916 disciplinary hearings held in 2015-16. Of those, 477 students received disciplinary transfers, 309 students received lateral transfers, and 73 received a behavioral contract. Of the 916 hearings held, 516 students were referred to the expulsion review committee.

From 516 referrals, a total of 32 expulsion hearings were held during the 2015-16 school year. Of the 32, 28 students were expelled either temporarily or permanently from the District.⁸

Additional OSSA Activities

OSSA continued to take an active role in providing support and assistance to the District in trying to combat school-based violence. The Advocate continues to see a clear need for evidence-based prevention strategies to be used as tools by the school community to reduce incidents of violence and, hence, victimization. To this end, the Advocate took affirmative steps to engage the District, City Council, State Representatives, Community-Based Organizations (CBOs) and various additional stakeholders in a collaborative approach to address all levels of school violence and promoting a positive climate for students. What remains uncontested is that all parties agree that a school must be a safe place to learn in order to increase a student's academic performance and literacy, while reducing drop-out rates and truancy. To that end, and in addition to supporting victims on a case-by-case basis in hearings and in schools, the Advocate also participated in, or facilitated the following:

- In 2014-15, OSSA collaborated with the Philadelphia District Attorney's Office on an Anti-Bullying Awareness Campaign. The Advocate and with District Attorney R. Seth Williams visited numerous elementary and middle schools to present on the dangers of bullying, its ill effects and how to be an "Upstander" in the fight against bullying. The campaign was capped off by an end of the year celebration held at the District Attorney's Office for those students who exhibited the positive message the DA and the Advocate shared along with their parents. Awards were given, as well as public praise for a job well done.
- Continued facilitating and hosting weekly school safety conference calls with various stakeholders.⁹ These weekly calls included various school representatives (charter and traditional public), Philadelphia police officers and SEPTA police. The calls enabled participants to discuss issues surrounding school climate and safety, including issues within a specific building as well as those between different school communities. As a result of the calls, the Advocate observed an increased presence of local law enforcement at school arrival and dismissal times in areas of pedestrian or vehicle congestion to avoid students being injured by traffic, and an increase

in patrols of places in the community where students were gathering to engage in large group fights or assaults.

- Participated in or conducted mediations with parents, police and school staff to address responsiveness to violence at the request of schools or parents throughout the district.
- Supplied written materials, hand-outs, brochures and books that offered victim assistance information, bullying awareness and suggestions on how parents can engage more with their child's school at events hosted by the School District, home and school associations and CBOs.

In order to continue promoting the office and encouraging outreach, OSSA sent letters, brochures and posters to citywide victim services organizations and police districts. The Advocate sought to encourage referrals to OSSA so that victims could receive immediate and continued support. Additionally, the Advocate met or conferred with numerous victim assistance professionals and organizations in Philadelphia, legislative and local government offices and juvenile justice agencies. The goal was to promote the availability of the office and the hope for collaborations as all parties work towards the same goal of ensuring a safe haven for children to learn, grow and mature.

Lastly and most importantly, the Advocate visited numerous schools in the District to observe the climate first hand. The Advocate attended meetings with the principals and/or staff and often had the opportunity to observe the classroom instruction and overall atmosphere in the schools. The Advocate visited a combination of traditional public, special admission and charter schools encompassing grades K-12; met with principals and teaching staff; observed classroom transition, main office staff interaction with students and parents, and in-class instruction. These visits were informative and contributed greatly to the advocate's ability to make the recommendations which are contained in this report.

IV. Data Collection and Analysis

OSSA obtained all statistics on offenses and discipline from the data provided by the District to the Pennsylvania Department of Education and through the limited data provided to OSSA throughout the year through SIMS.¹⁰ Throughout much of Pennsylvania, incidents are reported to the Department of Education through the Pennsylvania Information Management System (PIMS). By law, all the information provided by the Pennsylvania Department of Education shall include “all new incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances, alcohol, tobacco by any person on school property”, occurring between July 1, 2014 - June 30, 2015 and July 1, 2015 – June 30, 2016.¹¹

OSSA reviewed the data imported from the School District of Philadelphia’s SIMS and generated the graphs and comparative analysis of the coding of all reported incidents by the District.

A. Incidents Reported by the School District of Philadelphia to the Pennsylvania Department of Education Compared to Incidents Reported to OSSA

2014-2015 Incidents reported to PDE vs. OSSA

2015 Incidents Reported to PDE	Qty	2015 Incidents Reported to OSSA	Qty
AGGRAVATED ASSAULT ON STAFF	154	ASSAULT ON ADMINISTRATOR	14
SIMPLE ASSAULT ON STAFF	123	ASSAULT ON EMPLOYEE	32
		ASSAULT ON TEACHER	135
		ASSAULT ON SCHOOL POLICE	97
AGGRAVATED ASSAULT ON STUDENT	83	ASSAULT ON STUDENT	703
SIMPLE ASSAULT ON STUDENT	584	STABBING/SLASHING OF STUDENT	2
		ASSAULT ON OTHER PERSON	24
ARSON	22		
		DEATH OF STUDENT	2
BOMB THREATS	2	BOMB SCARE	6
		BOMB SCARE W/ EVACUATION	2
BULLYING	21	BULLYING - OF STUDENT	20
		BULLYING - CYBER	2
BURGLARY	10	BURGLARY	23
THEFT	94		
CRIMINAL TRESPASS	46	TRESPASSING	49
DISORDERLY CONDUCT	689	DISORDERLY CONDUCT (DISRUPTION)	712
FIGHTING	624	DISORDERLY CONDUCT (FIGHTING)	624
		DISORDERLY CONDUCT –FIGHTING (GANG-RELATED)	3

MINOR ALTERCATION	784	DISORDERLY CONDUCT W/INJURY	712
		INAPPROPRIATE CONDUCT	110
		DISORDERLY CONDUCT – GAMBLING	1
OBSCENE AND OTHER SEXUAL MATERIALS AND PERFORMANCES	77	MORALS - SEXUAL MISCONDUCT	79
		MORALS OFFENSE - SEXUAL CONSENT	11
INDECENT ASSAULT	80	MORALS - INDECENT ASSAULT	89
INDECENT EXPOSURE	26	MORALS - INDECENT EXPOSURE	27
INVOLUNTARY SEXUAL DEVIATE INTERCOURSE	6	MORALS - FORCED ORAL SEX	6
RAPE	6	MORALS OFFENSE (RAPES & ATTEMPTS)	7
KIDNAPPING/INTERFERENCE WITH CUSTODY OF	0	ABDUCTIONS & ATTEMPTS	3
		COMPUTER CRIMES	2
POSSESSION OF BB/PELLET GUN	25	WEAPONS GUN - (BB/PELLET TYPE)	26
POSSESSION OF CUTTING INSTRUMENT	76	WEAPONS - CUTTING INSTRUMENT	297
POSSESSION OF KNIFE	205		
POSSESSION OF HANDGUN	3	WEAPONS GUN - (HANDGUN)	3
POSSESSION OF OTHER WEAPON	44	WEAPONS - OTHER TYPE	45
		WEAPONS - FIREWORKS	1
POSSESSION/USE OF A CONTROLLED SUBSTANCE	211	MARIJUANA - POSSESSION, USE, FOUND	209
		DRUGS - POSSESSION, USE, FOUND	20
SALE/DISTRIBUTION OF A CONTROLLED SUBSTANCE	39	MARIJUANA - SALE/DISTRIBUTION	28
		DRUGS - SALE/DISTRIBUTION	9
POSSESSION/USE OR SALE OF TOBACCO	13	DISORDERLY CONDUCT (TOBACCO USE)	11
SALE/POSSESSION/USE OR UNDER THE INFLUENCE	13	ALCOHOL - POSSESSION, USE, FOUND	14
		ALCOHOL – SALES AND DISTRIBUTION	2
ROBBERY	57	ROBBERY OF STUDENT	77
		ROBBERY OF TEACHER	3
		ROBBERY OF OTHER PERSON	4
		EXTORTION OF STUDENT	1
SEXUAL HARASSMENT	26	HARASSMENT INVESTIGATION	86
ALL OTHER FORMS OF HARASSMENT/INTIMIDATION	33		
SUICIDE - ATTEMPTED	17	SUICIDE - ATTEMPTS & THREATS	65
THREATENING SCHOOL	416	THREATS	443

OFFICIAL/STUDENT			
VANDALISM	189	VANDALISM PERSONAL PROPERTY	27
		VANDALISM SCHOOL PROPERTY	392
		TRUANCY INVESTIGATION	12
		INVESTIGATION OF SHOOTING	7
		INVESTIGATION OF MISSING PROPERTY	81
		INVESTIGATION OF PERSON	113
		INVESTIGATION - STUDENT(S) FOLLOWED	34
		INVESTIGATION OF PROPERTY	52
Grand Total	4796	Grand Total	5557

2015-2016 Incidents reported to PDE vs. OSSA

2016 Incidents Reported to PDE	Qty	2016 Incidents Reported to OSSA	Qty
AGGRAVATED ASSAULT ON STAFF	157	ASSAULT ON ADMINISTRATOR	19
SIMPLE ASSAULT ON STAFF	114	ASSAULT ON EMPLOYEE	64
		ASSAULT ON TEACHER	133
		ASSAULT ON SCHOOL POLICE	63
		STABBING OF TEACHER/ADM.	1
AGGRAVATED ASSAULT ON STUDENT	68	ASSAULT ON STUDENT	747
SIMPLE ASSAULT ON STUDENT	644	STABBING/SLASHING OF STUDENT	5
		SHOOTING OF STUDENT	1
		ASSAULT ON OTHER PERSON	26
ARSON	35		
BOMB THREATS	3	BOMB SCARE	5
		BOMB SCARE W/ EVACUATION	4
BULLYING	22	BULLYING - OF STUDENT	23
		BULLYING - CYBER	1
BURGLARY	10	BURGLARY	33
THEFT	83		
CRIMINAL TRESPASS	54	TRESPASSING	54
DISORDERLY CONDUCT	782	DISORDERLY CONDUCT (DISRUPTION)	802
FIGHTING	549	DISORDERLY CONDUCT (FIGHTING)	550
MINOR ALTERCATION	900	DISORDERLY CONDUCT W/INJURY	801
		INAPPROPRIATE CONDUCT	138
OBSCENE AND OTHER SEXUAL MATERIALS AND P	51	MORALS - SEXUAL MISCONDUCT	50
		MORALS OFFENSE - SEXUAL CONSENT	11
INDECENT ASSAULT	89	MORALS - INDECENT ASSAULT	92

INDECENT EXPOSURE	17	MORALS - INDECENT EXPOSURE	18
INVOLUNTARY SEXUAL DEVIATE INTERCOURSE	6	MORALS - FORCED ORAL SEX	6
RAPE	3	MORALS OFFENSE (RAPES & ATTEMPTS)	4
KIDNAPPING/INTERFERENCE WITH CUSTODY OF	1	ABDUCTIONS & ATTEMPTS	3
		COMPUTER CRIMES	3
POSSESSION OF BB/PELLET GUN	30	WEAPONS GUN - (BB/PELLET TYPE)	31
POSSESSION OF CUTTING INSTRUMENT	59	WEAPONS - CUTTING INSTRUMENT	274
POSSESSION OF KNIFE	190		
POSSESSION OF HANDGUN	1	WEAPONS GUN - (HANDGUN)	2
POSSESSION OF OTHER FIREARM	1		
POSSESSION OF OTHER WEAPON	62	WEAPONS - OTHER TYPE	63
		WEAPONS - FIREWORKS	7
POSSESSION/USE OF A CONTROLLED SUBSTANCE	167	MARIJUANA - POSSESSION, USE, FOUND	175
		DRUGS - POSSESSION, USE, FOUND	12
SALE/DISTRIBUTION OF A CONTROLLED SUBSTANCE	32	MARIJUANA - SALE/DISTRIBUTION	26
		DRUGS - SALE/DISTRIBUTION	5
POSSESSION/USE OR SALE OF TOBACCO	6	DISORDERLY CONDUCT (TOBACCO USE)	6
SALE/POSSESSION/USE OR UNDER THE INFLUENCE	14	ALCOHOL - POSSESSION, USE, FOUND	14
ROBBERY	49	ROBBERY OF STUDENT	63
		ROBBERY OF TEACHER	3
		ROBBERY OF EMPLOYEE	2
		ROBBERY OF OTHER PERSON	4
		EXTORTION OF STUDENT	2
SEXUAL HARASSMENT	17	HARASSMENT INVESTIGATION	59
ALL OTHER FORMS OF HARASSMENT/INTIMIDATION	27		
SUICIDE - ATTEMPTED	6	SUICIDE - ATTEMPTS & THREATS	41
THREATENING SCHOOL OFFICIAL/STUDENT	403	THREATS	222
		THREATS - VERBAL & WRITTEN	209
VANDALISM	240	VANDALISM PERSONAL PROPERTY	18
		VANDALISM SCHOOL PROPERTY	462
		TRUANCY INVESTIGATION	13
		INVESTIGATION OF SHOOTING	10

		INVESTIGATION OF MISSING PROPERTY	66
		INVESTIGATION OF PERSON	87
		INVESTIGATION - STUDENT(S) FOLLOWED	23
		INVESTIGATION OF PROPERTY	47
Grand Total	4892	Grand Total	5603

What is noteworthy regarding the above tables is that the number of incidents reported to the Pennsylvania Department of Education continues to be lower than the total number received by OSSA as in previous years. It appears the disparity in totals could be a result of additional incident classifications collected by the District that are not required by the Pennsylvania Department of Education.

Weapons remain a concern and issue for the School District of Philadelphia. In 2015, weapons violations ranked 7th and in 2016 weapons ranked 6th among total number of incidents reported. Both the Advocate and the District are aware that many of these youth travel through dangerous areas of the city and are often armed for personal safety reasons. However, Act 26 is clear in its mandate.¹² The statewide expectation under Act 26 is that if a student brings a weapon to school, a disciplinary proceeding will begin likely resulting in the student being recommended for expulsion unless the Superintendent has carved out an exception.¹³ In spite of Act 26, there were very few expulsions last school year despite the number of reported incidents involving weapons. One possible reason for the relatively low number of expulsions for weapons based offenses may be attributable to the District-created “weapons waiver” policy.¹⁴ The weapons waiver policy allows a principal to decide *not* to proceed with an EH-21 disciplinary hearing for a student who is alleged to have been in possession of a weapon, and allow that student to remain in the school. As a result of the policy, the number of weapons incidents will not always equal to the number of disciplinary and expulsion hearings for weapons.¹⁵

This judgment call on the part of the principal offers little to no comfort for parents and students who may feel the safety of their child is compromised when a student who brought a weapon on to school grounds is allowed to remain in the school.

B. Incidents Resulting in Diversion Program for Defendants

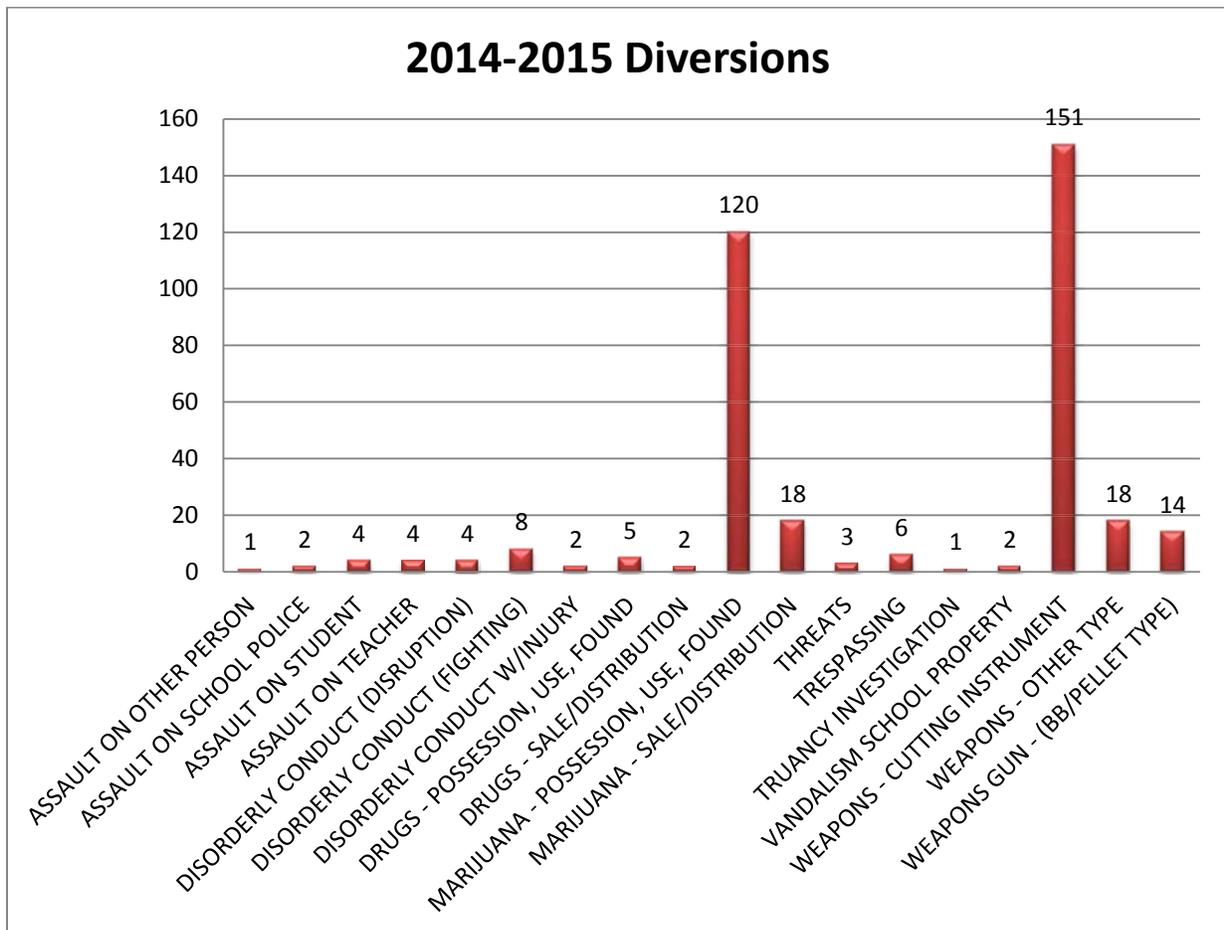
SY 2014 – 2015 was the first full year that the Diversion Program between the Philadelphia Police Department, District Attorney’s Office, Juvenile Court for the First Judicial District, School District of Philadelphia, Department of Human Services and the Defender Association¹⁶ was used.

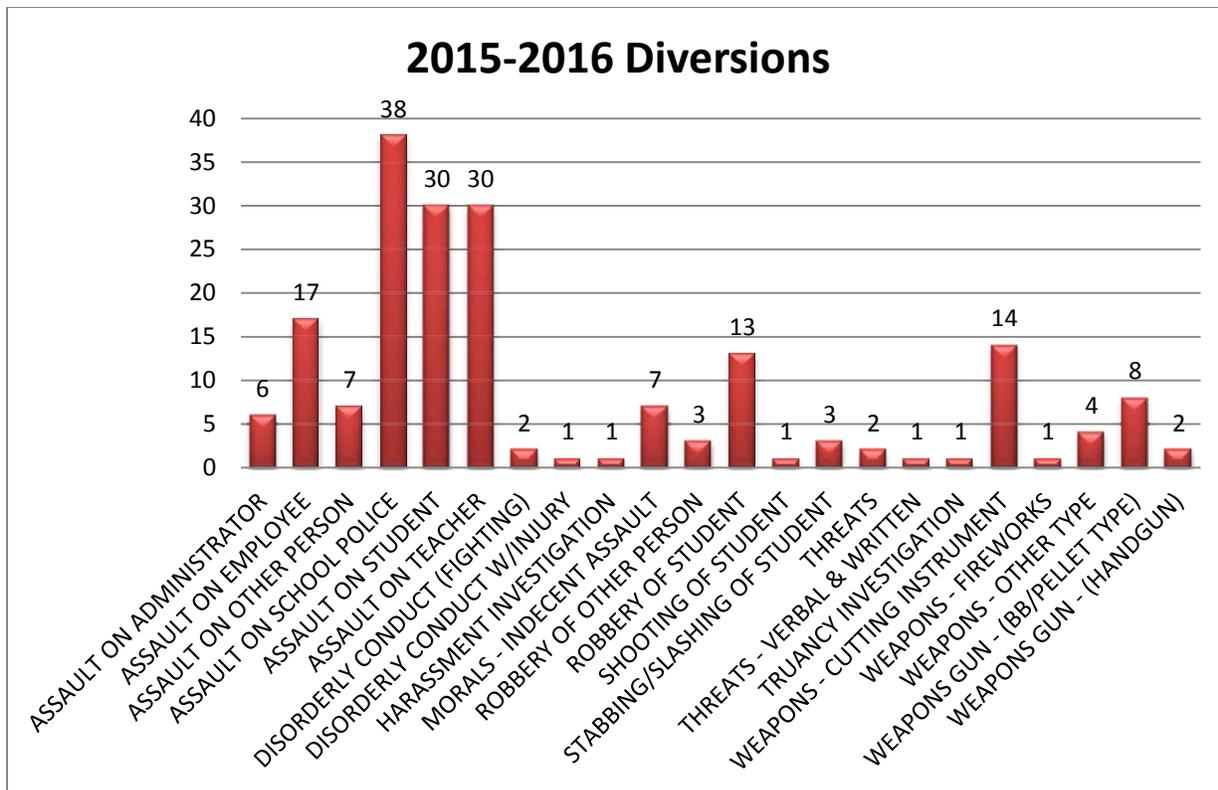
The Diversion Program is laudable for promoting inter-agency cooperation, for providing services for a student; and providing a first-time offender a chance to avoid contact with the juvenile justice system. However, the Diversion Program may obscure the facts and lead some to the conclusion that schools are safer due to reduced arrests. Previously, many incidents would have led to a report to the Philadelphia Police Department (“PPD”) and arrest pursuant to Act 26 for weapons, instead of leading to a report to PPD, no arrest and therefore, lower

numbers of incidents that would normally count as “persistently dangerous incidents.” These are weapon incidents, possession or violent incidents that result in arrest, which schools are required to report to PDE each year. Schools are considered “persistently dangerous schools” (PDS) if they meet any of the below criteria in the most recent school year and in one additional year of the two years prior to the most recent school year.

- For a school whose enrollment is 250 or less, at least five dangerous incidents.
- For a school whose enrollment is 251 to 1,000, a number of dangerous incidents that represent at least 2% of the school’s enrollment.
- For a school whose enrollment is over 1,000, 20 or more dangerous incidents.

As identified in the tables below, many of the diversions are for incidents which would formerly be (“PDS”) arrests. Our office predicts that there will not be another year with PDS schools in Philadelphia – but the overall safety of some of these schools has not improved.





The data noted above reflects the incidents reported as deferred in the 2014-15 and 2015-16 school year. The Advocate believes that the Diversion Program's intent is good and is hopeful that its implementation will be followed with fidelity to what is stated in its protocol. The Advocate looks forward to continuing continued dialogue with the PPD and other partner agencies to ensure that the diversion program is producing the results and providing the services it intends.

V. Observations and Recommendations

Similar to the Advocate's conclusion in the 2013-14 annual report, in order for the District to significantly reduce school violence, it must do the following:

- Increase communication;
- Be more consistent in the implementation of adopted protocols;
- Ensure proper data collection;
- Provide opportunities for professional development instruction; and
- Be accountable to the community.

Communication

For the 2014-2015 school year, through an agreement with the Superintendent, the point of contact for much of the communication between OSSA and the Philadelphia School District was the Bullying and Harassment Compliance Officer. The Advocate also sent reminders to the District about the need for every victim to receive information about OSSA at the time of the incident being reported. OSSA had reason to believe that victims were not receiving that information because victims would contact our office after a referral from a legislator or local representative, but not from the school administration. OSSA continued, and will continue, to send reminders to the District about the need for every victim to be made aware of the existence of OSSA at the time a parent/guardian is notified about an incident involving their child[ren]; also, OSSA will continue to make its office and its informational materials available so that there are no barriers to "real time" information sharing. Additional recommendations to improve communication are:

- The District should communicate to school employees, clearly and repeatedly, the policies and procedures designed to keep children safe in schools. As a part of its professional development offerings to school staff, the District should always include instruction on a subject area that furthers the goal of a positive school climate (i.e. positive behavior supports, restorative justice, social and emotional learning or trauma-informed care of children).
- The District should establish procedures that require all schools in the district to submit an annual school safety plan to the Superintendent outlining the school's plan of action for the upcoming academic year.
- 24 P.S. 13-§1310 A states that schools shall provide information about OSSA to the victim and/or their family when there is a report of an incident of violence. OSSA would recommend that this directive be sent as a periodic reminder to school principals so that providing information about OSSA would be routine when taking and making a report.

- The District should provide information on 100% of the reported incidents to O SSA. O SSA does not receive the data on all incidents reported through the SIMS database. O SSA would benefit in receiving all reported incidents in order to ensure that there are not matters involving victims where outreach and support is not provided due to lack of notification to O SSA.
- O SSA should receive timely information from the District about the victims of reported morals offenses (i.e. sexual assault, indecent assault). By not receiving this necessary information, O SSA is unable to provide outreach, in a timely manner, to an important victim community. In 2014-2015, O SSA was unable to contact over 200 victims of morals offense due to the unavailability of their contact information.
- The District should implement procedures that assure that victims of school-based incidents are given the same level of consideration as all other interested parties in a reported incident of violence.
- Not all incidents are being reported, as defined by the Office of School Safety incident reporting protocol.¹⁷ The District should ensure that all incidents be phoned into the Incident Desk. In SY2016 O SSA tracked over 150 incidents in which the notes section of the report indicated separate incidents that went unreported. Additionally, O SSA received e-mails verifying incidents not reported by schools, from outside entities or principals who sometimes state that they are not reporting incidents.
- The Superintendent should issue a directive to his administrators outlining the rights and expectations of victims of school-based incidents. Victims should expect the same level of communication and information from every school in the District, regardless of who is the lead administrator of the school.
- There is a need for increased communication and collaboration involving the Office of Specialized Instruction (Special Education) and those offices directly working on addressing school safety and climate. When the District is proposing to remove a student with a disability from their current placement for disciplinary reasons a manifestation Determination must be conducted to determine if the behavior that resulted in the change of placement is due to the manifestation of a child's disability. Close attention should be given to how Manifestation Determinations are conducted and whether appropriate level of interventions and supports were applied to address problematic behavior.
- The District's chain of command and organizational chart should be readily accessible to the public, and should be kept current. Identification of individuals responsible for school safety and climate and how they can be

contacted should be available. The inability to identify and communicate with the appropriate personnel delays any potential resolution to an issue, can aggravate already distressed parents and can perpetuate an unsafe school climate.

- OSSA should continue to facilitate a weekly telephone conference call between School District leadership, PPD, School District Police and SEPTA Police. OSSA found that by offering this ongoing and confidential means of communication, various situations were able to be addressed more quickly and, on occasion, with greater ease. This program represents a low-cost tool to preventing school violence and promoting safer communities.

Policy

- OSSA should be included in the District's discussions regarding the evaluation and revisions of the Code of Student Conduct, Discipline Procedure Manual, Victim Impact and Support Services, Memoranda of Understanding (MOU), Consent Decrees and any other protocols or procedures that would address the subject of violence in school and the promotion of school safety.
- Reporting weapons violations to the police, per the District's MOU, should be standard practice. Educators and administrators must be trained that they have no discretion in reporting these types of crimes to law enforcement.
- The weapons waiver policy process should be reviewed by the District administration. The existence of a policy that affords school administrators the ability to exercise this sort of discretion is in conflict with Act 26. A determination must be made as to whether a weapons waiver is a valid policy in light of Act 26. If it is, specific directions and options must be given to ensure the weapons waiver policy is being applied consistently and with the appropriate outcome(s). The Advocate remains concerned about how weapons are being handled by the School District of Philadelphia and whether Act 26 needs to be reviewed in order to take into consideration the various environments and communities of school age children across the Commonwealth.
- The District should engage in the promotion of evidence-based prevention strategies and continued implementation of restorative justice practices that are designed to promote a positive school climate. There were several opportunities for OSSA to partner with the District in promoting evidence-based prevention strategies to reduce school violence, and the details of those partnerships are included in this report. OSSA will continue to reach

out to the District in hopes of partnering on the implementation of these programs and initiatives that will help to enhance the safety of students, parents and administrators.

- The District should participate in the next distribution of the Pennsylvania Youth Survey (PAYS) in the fall of 2017. Over 300 districts across the Commonwealth participated in 2013 and the data that is collected by this free, voluntary and confidential survey can serve as a key tool in helping to identify community-based risks/problems and applying for the necessary resources to address those problem areas.
- The District should create a standardized cell phone policy. The possession and use of cell phones in schools is a safety concern. Presently, each individual school seems to carve out its own cell phone policy. This lack of consistency creates a problem for administrators, faculty and police and sends a confusing message to the student body.

Data Collection

- The Serious Incident Management System (SIMS) is the database used by the District to collect and report incident data. Throughout much of Pennsylvania, incidents are reported to the Department of Education through the Pennsylvania Information Management System (PIMS). The Advocate has indicated to the District that the use of the term “SIMS” creates a level of confusion regarding what must be reported. It gives the false impression to reporters that incidents must be ‘serious’ in order to be reported to SIMS. In actuality ‘all’ incidents should be reported to SIMS. Incidents are still being underreported by schools in the District.
- The Advocate continues to believe that the misidentification or miscategorization of incidents based on how the facts are being applied to the definition of the offense(s) must be remedied. Through a review of the Incident Reports, the Advocate identified discrepancies between the codes used to describe incidents and the short narrative/notes in the Incident Reports.

For example, the term “disorderly conduct” is often used in the code section where the narrative more accurately describes a more serious charge, such as assault. There still remains a great concern with how matters are coded by the School District’s incident reporting desk, especially since this directly affects how data and trends regarding violence in the School District are identified and interpreted.

If the miscoding of offenses is not corrected, the resulting data will give a false sense of security to the public-at-large. To assist in the effort of properly coding all incidents, OSSA will continue to review incidents it receives and provide to the School District on a monthly basis a list of those items that it identifies as miscoded. The goal is to try and collaboratively work towards greater consistency in how incidents are identified and reported to PDE.

- The District should review trends in data so the District can incorporate the data results into its existing strategic plan and prepare for the adoption and implementation of data-driven solutions.
- Data generated through the implementation of the PPD's Diversion Program should be shared, analyzed and discussed to determine its initial overall effectiveness. Based on what is reflected in the data, any policy revisions should be considered and, if agreed upon by all parties, adopted as a part of the existing MOU.
- Charter schools are not subject to the same level of scrutiny regarding their reporting of school-based incidents. In order to ensure the safety of all children in Philadelphia who attend public school, charter schools should be required to submit periodic reports throughout the school year that will be incorporated into their year-end annual report to the PA Department of Education. Further, charter schools that report having zero or less than 10 incidents per year should be site-visited for review of their understanding of the Safe Schools Act and reporting requirements.

Professional Development

- Educators and administrators alike should be informed and aware of the function of OSSA and its responsibilities under the Act. A victim-centered approach should be a focal point in evaluating whether a hearing or mediation process is beneficial and effective in achieving the goal of reducing future incidents and assessing accountability for negative behavior.
- 2014-15 was a school year where the severe fiscal constraints of the previous years continued. In 2015-16, although severe fiscal constraints still existed, relief came through city funding with an agreement that the District would be more accountable and transparent. During both years, concerns about district-wide safety, violence, and the lack of responsiveness of administrators were expressed to the Advocate by District staff and teachers. To address these concerns, the Advocate engaged with the Superintendent, his designee, and/or other appropriate central office staff directors to seek

immediate or future redress. The District should develop a mechanism for all teachers and staff to report safety concerns.

Accountability

- The District should promote strict and immediate accountability for personnel who breach their code of professionalism and their role as educators by engaging in assaultive or bullying behavior towards students.
- Teachers should have a means to confidentially report, without fear of reprisal, incidents in schools involving colleagues or supervisors that compromise safety.

Legislation

- The statute governing OSSA should be amended to require that the annual report be due by no later than January 1 of the year following the previous fiscal year. In other words, the annual report for a school year ending in June should not be due until the following January. The PIMS data from Department of Education is not available before the middle or end of August and requires significant analysis before inclusion in OSSA report.
- The statute should be updated to specifically include monitoring incidents and assisting victims at Charter schools. As noted above, Charters function with little oversight and their PIMS reports frequently report zero incidents in any given school year.

GLOSSARY

GLOSSARY

Terms

“Act 26 of 1995”: A Pennsylvania statute enacted in 1995 to address violence and weapons possession in Pennsylvania’s schools. This law requires all public schools to report to the Pennsylvania Department of Education’s Office of Safe Schools all incidents involving acts of violence, possession of a weapon, or the possession, use or sale of a controlled substance, alcohol or tobacco by any person on school property, at school-sponsored events, and on school transportation to and from school or school-sponsored event. The Safe Schools Act also requires school districts to expel, for a period of not less than one year, any student who is determined to have brought onto, or is in possession of any weapon on school property, at a school-sponsored event, or to any public conveyance providing transportation to a school or school-sponsored event.

Alternative School Placement: A school or program that is focused on improving student behavior, attendance and academic performance.

Bullying: Engaging in behavior that prevents or discourages another student from exercising his/her right to education. Bullying behavior is defined as aggressive or intentional hurtful behavior perpetrated repeatedly over a period of time, in a relationship characterized by an imbalance of power (with regards to gender, physical or mental strength, social acceptance etc.). Such prohibited behavior includes the use of teasing, taunting, threats, coercion, repeated harassment, abuse, oppression, intimidation against students, school personnel or school visitors or exclusion of anyone physically, psychologically or sexually.¹⁸

Code of Student Conduct: Document adopted by the District which informs students, parents, and school employees of the behavior expected from all students to ensure a safe and orderly learning environment. Revised in the summer of 2012 and approved by the School Reform Commission, the school district operated under a new student Code of Conduct for the 2012-2013 school year.

Disciplinary School: A school designed to provide alternative education and support to students with disciplinary problems.

Disciplinary Transfer: Placement of a student at a disciplinary school, which may or may not occur during a period of expulsion, following the student’s commission of a Level II offense.

“District” or “SDP”: School District of Philadelphia.

“EH-21”: School Police incident report paperwork.

“EH-36E”: Transfer request form for extenuating circumstances.

“EH-31”: Incident Follow-up Report.

Expulsion: Removal of a student from a regular public school for any period beyond ten

(10) days. The District may assign that student to a disciplinary school during the period of expulsion.

Incident: A single event usually involving misconduct, accident or illness, investigations, or suspicious activity occurring on school grounds which may involve any number of students, school personnel, or community members.

Incident Control Report (Incident Report): A District report documenting events including misconduct, accident or illness, investigations, and suspicious activity occurring on school grounds and reported to the Incident Control Unit by school personnel.

Individuals with Disabilities Education Act (IDEA): Federal law mandating that school districts provide Special Education services and outlining special provisions for those students.

Lateral Transfer: Transfer from a regular public school to another regular public school, rather than a disciplinary school, as a disciplinary measure.

Mandatory Expulsion Offense: Under Pennsylvania law possession of a weapon on school property, or at a school sponsored event, or on transportation to and from school, is an offense for which expulsion for at least one year is mandated. The only exceptions can be made by the Superintendent on a case by case basis.

Memorandum of Understanding (“MOU”): As amended June 20, 2011 Agreement entered into between the School District of Philadelphia and the Philadelphia Police Department which, pursuant to Chapter 10 of the School Code titled “Safe Schools”, establishes procedures to be followed when certain specific incidents described in the MOU occur on School District property. The MOU’s purpose is to foster a relationship of cooperation and mutual support between the parties to work together to maintain the physical security and safety of the School District. The MOU is to be executed and updated on a biennial basis.

No Child Left Behind (“NCLB”): Signed into law in 2001, Congress reauthorized the Elementary and Secondary Education Act (“ESEA”)—the principal federal law affecting education from kindergarten through high school. NCLB requires schools to implement a statewide policy giving students the choice to attend a safe public school within the District if he or she either attends a persistently dangerous public elementary or secondary school, or becomes a victim of violent crime while in or on the grounds of the public school he/she attends.

Offense: An instance of infraction of the Code of Student Conduct by a single student, reported in an incident report and with that student accurately identified by name or Student ID.

Regular Public School: Any public school that is not a disciplinary school or charter school.

Safe Schools Act: see “Act 26”.

Serious or Violent Offense: An offense classified under a serious or violent offense category: Arson, Assault (all), Assault with Weapon, Drugs (all), Robbery, Sexual Assault, Sexual Non-violent, Threats (all), Weapon Possession.

Special Education: A classification assigned to students with disabilities as defined by IDEA, qualifying the student for specially designed instruction offered without charge to meet his or her individual needs.

Student Identification Number (Student ID): A unique seven-digit number assigned to each student in the Philadelphia public schools.

Weapon: Under Pennsylvania law, any tool, instrument, or implement capable of inflicting serious bodily injury, including but not limited to any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, or rifle.

Offense Categories

Arson: The unlawful and intentional damage or attempt to damage any real or personal property by fire or incendiary device.

Assault (Gang): Any assault committed by multiple offenders.

Assault (Simple): Any unlawful attack by one student upon another student or other person with the intent to inflict bodily injury.

Assault (School Personnel): An unlawful attack by one student upon a school employee or other person officially acting in the service of the District. All assaults on school personnel are aggravated assaults by operation of Pennsylvania law.

Assault on Student, Aggravated: An unlawful attack by one student upon another in which the victim suffers obvious serious bodily injury.

Assault with Weapon: An assault by one student upon another student or school employee in which the student offender uses or is in possession of a weapon.

Drugs (Intent to Distribute): Selling or distributing any controlled drug/narcotic substance or substances representing a drug or equipment and devices used for preparing or taking drugs or narcotics, or possessing these items in sufficiently large quantities, or under circumstances which would indicate that they are not for personal use.

Drugs (Personal Use Only): The unlawful use or possession of any controlled drug/narcotic substance or substances representing a drug under circumstances which would indicate that they are not for personal use.

Robbery: The taking, or attempting to take the property of another by force, threat of force or violence, or putting the victim in fear of immediate harm.

Sexual Assault: Any forcible sexual act or other act involving non-consensual touching of the sexual parts of another person.

Threats (Serious): Any act which unlawfully places another student or school employee in fear of serious bodily injury or which mentions the use of a weapon, but does not involve displaying a weapon or subjecting the person to actual physical attack.

Threats (Other): Any act which unlawfully places another student or school employee in fear of injury, but not involving serious bodily injury, the use of a weapon, or subjecting the person to actual physical attack.

APPENDICES

Appendix A

APPENDIX A

The Safe Schools Act (Act 26)

24 P.S. § 13-1317.2. Possession of weapons prohibited (a.k.a. “Act 26”)

(a) Except as otherwise provided in this section, a school district or area vocational-technical school shall expel, for a period of not less than one year, any student who is determined to have brought onto or is in possession of a weapon on any school property, any school-sponsored activity or any public conveyance providing transportation to a school or school-sponsored activity.

(b) Every school district and area vocational-technical school shall develop a written policy regarding expulsions for possession of a weapon as required under this section. Expulsions shall be conducted pursuant to all applicable regulations.

(c) The superintendent of a school district or an administrative director of an area vocational-technical school may recommend modifications of such expulsion requirements for a student on a case-by-case basis. The superintendent or other chief administrative officer of a school entity shall, in the case of an exceptional student, take all steps necessary to comply with the Individuals with Disabilities Education Act (Public Law 91-230, 20 U.S.C. § 1400 et seq.).

(d) The provisions of this section shall not apply to the following:

(1) a weapon being used as part of a program approved by a school by an individual who is participating in the program; or

(2) a weapon that is unloaded and is 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.

(e) Nothing in this section shall be construed as limiting the authority or duty of a school or area vocational-technical school to make an alternative assignment or provide alternative educational services during the period of expulsion.

(e.1) A school district receiving a student who transfers from a public or private school during a period of expulsion for an act or offense involving a weapon may assign that student to an alternative assignment or provide alternative education services, provided that the assignment may not exceed the period of expulsion.

(f) All school districts and area vocational-technical schools shall report all incidents involving possession of a weapon prohibited by this section as follows:

(1) The school superintendent or chief administrator shall report the discovery of any weapon prohibited by this section to local law enforcement officials.

(2) The school superintendent or chief administrator shall report to the Department of Education all incidents relating to expulsions for possession of a weapon on school grounds, school-sponsored activities or public conveyances providing transportation to a school or school-sponsored activity. Reports shall include all information as required under section 1303-A. [FN1]

(g) As used in this section, the term “weapon” shall include, but not be limited to, any knife, cutting instrument, cutting tool, nunchaku, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.

CREDIT(S)

1949, March 10, P.L. 30, No. 14, art. XIII, § 1317.2, added 1995, June 30, P.L. 220, No. 26, § 4, effective in 90 days.

Amended 1997, June 25,

P.L. 297, No. 30, § 6, effective July 1, 1997.

[FN1] 24 P.S. § 13-1303-A.

Appendix B

MEMORANDUM OF UNDERSTANDING
BETWEEN
THE PHILADELPHIA POLICE DEPARTMENT
AND
THE SCHOOL DISTRICT OF PHILADELPHIA

September 7, 2016

I. Introduction

A. Parties

The following Law Enforcement Authority or Authorities agree to follow the policies and procedures contained in this Memorandum of Understanding (hereinafter "Memorandum"):

- **PHILADELPHIA POLICE DEPARTMENT**
750 Race Street, Philadelphia PA, 19106

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

- **PHILADELPHIA SCHOOL DISTRICT**
444 North Broad Street, Philadelphia, PA, 19130

B. This Memorandum establishes procedures to be followed when certain incidents—described in Section II below—occur on school property, at any school sponsored activity, or on a conveyance as described in the Safe Schools Act (such as a school bus) providing transportation to or from a school or school sponsored activity. This Memorandum does not cover incidents that are outside of those school settings and create no substantial disruption to the learning environment.

C. The parties seek to foster a relationship of cooperation and mutual support and to maintain a safe school environment.

D. Legal Authority

1. The parties make this agreement as required by Article XIII-A of the Public School Code of 1949, popularly known as the "Safe Schools Act," as amended, 24 P. S. §§ 13-1301-A-13-1313-A.

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.

3. Information From Student Records

a. The Law Enforcement Authority shall be governed by the following reporting and information exchange guidelines:

- i. Criminal History Record Information Act, 18 Pa.C.S. § 9101 et seq.
- ii. The prohibition against disclosures, specified in section IV(C)(5) of this Memorandum.

b. When sharing information and evidence necessary for the Law Enforcement Authority to complete its investigation, the School Entity shall:

- i. Comply with the Family Educational Rights and Privacy Act (hereinafter "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, including any amendments thereto.
- ii. Comply with the requirements of the Safe Schools Act, 24 P. S. §§ 13-1303-A and 13-1313-A, and any amendments thereto.
- iii. Complete reports as required by section 1303-A of the Safe Schools Act, 24 P. S. § 13-1303-A, and any amendments thereto.

c. 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 circumstance led it to determine that a health or safety emergency existed and why the disclosure was justified.

E. Priorities of the Law Enforcement Authority

1. Help the School Entity prevent delinquent acts through preventive measures, including referrals to support services, diversionary programs, restorative practices, school-wide positive behavior supports, education and

deterrence.

2. Investigate as appropriate all incidents reported to have occurred on school property, at any school sponsored activity, or on a conveyance as described in the Safe Schools Act (including a school bus) providing transportation to or from a school or school sponsored activity. The investigation of all reported incidents shall be conducted in the manner that the Law Enforcement Authority, in its sole discretion, deems appropriate; but any investigation shall be conducted so as to involve as little disruption to the school environment as is practicable.
3. 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 to the school environment as is practicable.
4. Establish and maintain a cooperative relationship with the School Entity in the reporting and resolution of all incidents described in Section II of this document.

F. Priorities of the School Entity

1. Help law enforcement prevent delinquent acts through preventive measures, including referrals to support services, diversionary programs, restorative practices, school-wide positive behavior supports, education and deterrence.
2. Create a safe learning environment.
3. Establish and maintain a cooperative relationship with the Law Enforcement Authority in the reporting and resolution of all incidents described in Section II of this document.
4. Provide the Law Enforcement Authority with all relevant information and required assistance in the event of a reported incident.
5. The School Entity shall give the Law Enforcement Authority a copy of the School Entity's behavior support services procedures and invite Law Enforcement Authority representatives to behavior support trainings.

II. Notification of Incident

The School Entity is required to notify law enforcement in specific situations listed in subsection A of this section, and has discretion over whether to notify law enforcement about incidents listed in subsection B of this section. Law enforcement's decision to investigate and file charges may be made in consultation with school administrators.

A. Mandatory Notification

1. The School Entity shall immediately notify the Law Enforcement Authority having jurisdiction where the offense occurred by the most expeditious

means practicable of any of the following incidents occurring on school property, at any school sponsored activity, or on a conveyance as described in the Safe Schools Act (including a school bus) providing transportation to or from a school or school sponsored activity:

- a. The following offenses under 18 Pa.C.S (relating to crimes and offenses):
 - i. Section 908 (relating to prohibited offensive weapons).
 - a. The term "offensive weapon" is defined by section 908 of the Crimes Code as "[a]ny bomb, grenade, machine gun, sawed-off shotgun with a barrel less than 18 inches, firearm specially made or specially adapted for concealment or silent discharge, any blackjack, sandbag, metal knuckles, dagger, knife, razor or cutting instrument, the blade of which is exposed in an automatic way by switch, push-button, spring mechanism, or otherwise, any stun gun, stun baton, taser or other electronic or electric weapon or other implement for the infliction of serious bodily injury which serves no common lawful purpose." See 18 Pa.C.S. § 908(c) (relating to definitions).
 - b. Consistent with section 908(b) of the Crimes Code (relating to exceptions), this reporting requirement does not apply to one who possessed or dealt with an offensive weapon solely as a curio or in a dramatic performance, or to one who possessed an offensive weapon briefly in consequence of having found it or taken it from an aggressor, or under circumstances similarly negating any intent or likelihood that the weapon would be used unlawfully.
 - ii. Section 912 (relating to possession of weapon on school property).
 - a. The term "weapon" is defined by section 912 of the Crimes Code to include, but is not limited to, a knife, cutting instrument, cutting tool, nunchuck stick, firearm, shotgun, rifle and any other tool, instrument or implement capable of inflicting serious bodily injury.
 - b. Consistent with section 912(c) of the Crimes Code (relating to defense), this reporting requirement does not apply to a weapon that is: (a) possessed and used in conjunction with a lawful supervised school activity or course; or (b) is possessed for other lawful purpose.
 - iii. Chapter 25 (relating to criminal homicide).
 - iv. Section 2702 (relating to aggravated assault).
 - v. Section 2709.1 (relating to stalking).
 - vi. Section 2901 (relating to kidnapping).Section 2902 (relating to unlawful restraint).
 - vii. Section 3121 (relating to rape).

- viii. Section 3122.1 (relating to statutory sexual assault).
 - ix. Section 3123 (relating to involuntary deviate sexual intercourse).
 - xi. Section 3124.1 (relating to sexual assault).
 - xii. Section 3124.2 (relating to institutional sexual assault).
 - xiii. Section 3125 (relating to aggravated indecent assault).
 - xiv. Section 3126 (relating to indecent assault).
 - xv. Section 3301 (relating to arson and related offenses).
 - xvi. Section 3307 (relating to institutional vandalism),
when the penalty is a felony of the third degree.
 - xvii. Section 3502 (relating to burglary).
 - xviii. Section 3503(a) and (b)(1)(v) (relating to criminal trespass).
 - xix. Section 5501 (relating to riot).
 - xx. Section 6110.1 (relating to possession of firearm by minor).
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- b. The possession, use or sale of a controlled substance, designer drug or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act," as amended, 35 P. S. §§ 780-101-780-144, popularly known as the "Drug Act." For purposes of this Memorandum, the terms "controlled substance", "designer drug" and "drug paraphernalia" shall be defined as they are in section 102 of the Drug Act. See 35 P. S. § 780-102 (relating to definitions).
 - c. Attempt, solicitation or conspiracy to commit any of the offenses listed in paragraphs 1 and 2 of this subsection.
 - d. An offense for which registration is required under 42 Pa.C.S. § 9795.1 (relating to registration).
2. In responding to students who commit an incident listed under section 1303-A(b)(4.1) of the Safe Schools Act (24 P. S. § 13-1303-A(b)(4.1)), a school entity may consider the propriety of utilizing available school-based programs, such as school-wide positive behavior supports, to address the student's behavior. Nothing in this provision shall be read to limit law enforcement's discretion.

B. Discretionary Notification

- 1. The School Entity may notify the Law Enforcement Authority having jurisdiction where the incident occurred of any of the following incidents occurring on school property, at any school sponsored activity, or on a conveyance as described in the Safe Schools Act (including a school bus) providing transportation to or from a school or school sponsored activity:
 - a. The following offenses under 18 Pa.C.S (relating to crimes and offenses):

- i. Section 2701 (relating to simple assault).
 - ii. Section 2705 (relating to recklessly endangering another person).
 - iii. Section 2706 (relating to terroristic threats).
 - iv. Section 2709 (relating to harassment).
 - v. Section 3127 (relating to indecent exposure).
 - vi. Section 3307 (relating to institutional vandalism), when the penalty is a misdemeanor of the second degree.
 - vii. Section 3503(b)(1)(i), (ii), (iii) and (iv), (b.1) and (b.2) (relating to criminal trespass).
 - viii. Chapter 39 (relating to theft and related offenses).
 - ix. Section 5502 (relating to failure of disorderly persons to disperse upon official order).
 - x. Section 5503 (relating to disorderly conduct).
 - xi. Section 6305 (relating to sale of tobacco).
 - xii. Section 6306.1 (relating to use of tobacco in schools prohibited).
 - xiii. Section 6308 (relating to purchase, consumption, possession, or transportation of liquor or malt or brewed beverages by a person under 21 years of age).
 - b. Attempt, solicitation or conspiracy to commit any of the offenses listed in subsection (a).
 2. In exercising its discretion to determine whether to notify law enforcement of such incidents, the School Entity may consider the following factors: the seriousness of the situation, the school's ability to defuse or resolve the situation, the child's intent, the child's age, whether the student has a disability and, if so, the type of disability and its impact on the student's behavior, and other factors believed to be relevant.
- C. Law Enforcement Response to Notification
1. When notified of an incident listed in subsections A or B, law enforcement's decision to investigate and file charges, at the sole discretion of the Law Enforcement Authority, may be made in consultation with school administrators.
 2. In determining whether to file charges, the Law Enforcement Authority is encouraged to consult with the District Attorney. Where appropriate under the law, part of this consultation may include a discussion about the availability or propriety of utilizing a diversionary program as an alternative to filing charges.
 3. In no case shall a child who is 10 years old or younger be arrested.
- D. Notification of the Law Enforcement Authority when incident involves children with disabilities

1. If a child with a disability commits an incident of misconduct, school administrators and the Law Enforcement Authority should take into consideration that the child's behavior may be a manifestation of the disability and there may be no intent to commit an unlawful act. A child with a disability under this subsection shall mean a student with an IEP, a protected handicapped student with a service agreement that includes a behavior support plan, or such student for whom an evaluation is pending under 22 Pa. Code §§ 14.123 (relating to evaluation), 15.5 (relating to school district initiated evaluation and provision of services), 15.6 (relating to parent initiated evaluation and provision of services), or Chapter 711 (relating to charter school and cyber charter school services and programs for children with disabilities).

2. In the event a child with a disability commits a mandatory notification offense under Subsection A, the School Entity must provide immediate notification to the Law Enforcement Authority regardless of the disability. Such notification will state that the child has an IEP or a service agreement that includes a behavior support plan and may include the School Entity's recommendation that police intervention may not be required and advisement that the School Entity will act to address the student's behavior need as required by applicable federal and state law and regulations, including 22 Pa. Code §§ 14.133 (relating to positive behavior support), 15.3 (relating to protected handicapped students —general) or 711.46 (relating to positive behavior support). The Law Enforcement Authority may take the recommendation under advisement but reserves the right to investigate and file charges.
3. In the event a child with a disability commits a discretionary offense under Subsection B and the School Entity does not believe that police intervention is necessary, the School Entity will address the student's behavior need as required by applicable federal and state law and regulations, including 22 Pa. Code §§ 14.133, 15.3 or 711.46.
4. In accordance with 34 CFR 300.535 (relating to referral to and action by law enforcement and judicial authorities), nothing will prohibit the School Entity from reporting an offense committed by a child with a disability to the Law Enforcement Authority, and nothing 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.
5. The School Entity, when reporting an offense committed by a child with a disability, should 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.
6. The School Entity, when 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 FERPA.

[Describe any specific procedures to be followed for incidents involving a student with a plans) or 22 Pa. Code Chapter 711 (relating to charter school and cyber charter school services and programs for children with disabilities)]

- E. 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 have been notified.
10. Identity of the school contact person.
11. Identity of the witnesses to the incident, if any.
12. Whether the incident involves a student with a disability and, if so, the type of disability and its impact on the student's behavior.
13. Other such information as is known to the school entity and believed to be relevant to the incident.

- F. No later than September 30 of each year, the School Entity shall assemble and make ready for immediate deployment to its Incident Command Post the following information for the purpose of assisting the Law Enforcement Authority 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. Location(s) of predetermined or prospective command posts.
4. Current teacher/employee roster.
5. Current student roster.
6. Most recent 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.

III. Law Enforcement Authority Response

- A. Depending on the totality of the circumstances, initial response by the Law Enforcement Authority may 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 initially reported to the Law Enforcement Authority
If any incident described in sections IIA or IIB is initially reported to the Law Enforcement Authority, the Law Enforcement Authority shall proceed directly with its investigation, shall immediately notify the School Entity of the incident, and shall proceed as outlined in sections IIA through IIE.

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 under any of the following circumstances:
 - 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.
 - 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 a parent, guardian or person in parental relation to such pupil concerning conduct and behavior over the pupils attending a school during the time they are in attendance, including the time required in going to and from their homes.

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 a conveyance as described in the Safe Schools Act providing transportation to or from school or a school sponsored activity.

B. Notification of Parent or Guardian

1. Parents or guardians of all victims and suspects directly involved in an incident listed under Section IIA or IIB shall be immediately notified of the involvement, and they shall be informed about any notification regarding the incident that has been, or may be, made to the Law Enforcement Authority.
2. The School Entity shall document attempts made to reach the parents or guardians of all victims and suspects directly involved in incident listed under Section IIA or IIB.

C. Scope of School Entity's Involvement

1. 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 Law Enforcement Authority on matters of criminal and juvenile law procedure, except as is necessary to protect the interests of the School Entity. The Law Enforcement Authority will keep the chief school administrator, or his designees, informed of the status of pending investigations.
2. Victims
 - a. 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 its policies and procedures when interviewing a victim to ensure the protection of the victim's legal and constitutional rights.
 - b. In the event a victim is interviewed by Law Enforcement Authority on school property, a guidance counselor or similar designated personnel may be present during the interview.
3. Witnesses
 - a. 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 its policies and procedures when interviewing a witness to ensure the protection of the witness's legal and constitutional rights.

- b. In the event a witness is interviewed by the Law Enforcement Authority on school property, a guidance counselor or similar designated personnel should be present during the interview.

4. Suspects and Custodial Interrogation

- a. The School Entity shall help 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.
- b. When a parent or guardian is not present, school authorities shall not stand in loco parentis (in the place of the parent/guardian) during an interview.
- c. If an interested adult cannot be contacted, the School Entity shall defer to the investigating Law Enforcement Authority, which will protect the student suspect's legal and constitutional rights as required by law.

5. Conflicts of Interest

- a. The parties to this Memorandum recognize that if a School Entity employee, contractor, or agent 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. 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

All school entities are required to submit an annual report, which will include violence statistics and reports, to the Department of Education's Office for Safe Schools. This annual report must include all new incidents described in Sections IIA and IIB. Before 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:
 - i. The parties agree to meet and confer in an attempt to resolve or reconcile any discrepancies in school violence data prior to filing the annual report

V. General Provisions

- A. This Memorandum does not create any contractual rights or obligations between the signatory Law Enforcement Authority, the signatory School Entity, any other signatory authorities or entities, or their respective officers, employees, agents or representatives.
- B. This Memorandum may be amended, expanded or modified at any time upon the written consent of the parties. It must be reviewed and re-executed within two years of the date of its original execution and every two years thereafter.
- C. If changes in state or federal law require changes to this Memorandum, the parties shall amend this Memorandum.
- 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.
- E.

VI. School District and PPD Immunity

A. Notwithstanding any other provisions of this MOU, or any addendum or exhibit to the contrary, the School District retains its statutory immunity as provided pursuant to the laws of the Commonwealth of Pennsylvania, 42 Pa. C.S.A. §§ 8501 and 8541. The PPD acknowledges that the School District:

1. Is a local agency, as defined in 42 Pa. C.S.A. §§8501 and 8541 and,
2. Does not waive its defense of statutory immunity derived therefrom.

B. Notwithstanding any other provisions of this MOU, or any addendum or exhibit to the contrary, the PPD retains its statutory immunity as provided pursuant to the laws of the Commonwealth of Pennsylvania, 42 Pa. C.S.A. §§ 8501 and 8541. The School District acknowledges that the PPD

-
1. Is a local agency, as defined in 42 Pa. C.S.A. §§8501 and 8541 and,
 2. Does not waive its defense of statutory immunity derived therefrom.

IN WITNESS WHEREOF, the parties hereby acknowledge the foregoing as the terms and conditions of their understanding as of the day and year first above written.

THE SCHOOL DISTRICT OF PHILADELPHIA

By: 
William R. Hite, Jr., Ed.D.
Superintendent

Approved as to Form Only:


Attorney for the School District
of Philadelphia

PHILADELPHIA POLICE DEPARTMENT

By: 
Richard J. Ross, Jr.
Police Commissioner

(MOU) THE PHILADELPHIA POLICE DEPARTMENT
OGC Contract No.: 292/F17

Appendix C

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE PHILADELPHIA SCHOOL DISTRICT,
THE PHILADELPHIA POLICE DEPARTMENT,
THE PHILADELPHIA DEPARTMENT OF HUMAN SERVICES,
THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE,
THE PHILADELPHIA COURT OF COMMON PLEAS,
FAMILY COURT,
THE DEPARTMENT OF BEHAVIORAL HEALTH AND
INTELLECTUAL DISABILITIES SERVICES,
THE DEFENDER ASSOCIATION OF PHILADELPHIA, AND ~~THE~~
~~PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE~~
REGARDING THE
PHILADELPHIA DELINQUENCY DIVERSION PROGRAM**

PURPOSE

This Memorandum of Understanding is entered into between the Philadelphia School District (hereinafter referred to as the District), the Philadelphia Department of Human Services (hereinafter referred to as DHS), the Philadelphia District Attorney's Office (hereinafter referred to as DAO), the Philadelphia Police Department (hereinafter referred to as the PPD), the Court of Common Pleas, Family Court, Philadelphia County (hereinafter referred to as the Court), the Department of Behavioral Health and Intellectual Disability Services, the Defender Association of Philadelphia, and the Pennsylvania Department of Public Welfare for the purposes of establishing a cooperative relationship and the implementation of a Delinquency Diversion Program between community agencies (hereinafter referred to as the parties) involved in the handling of students alleged to have committed delinquent acts on or about Philadelphia school premises. The parties acknowledge that it may be in the best interest of students that certain summary and misdemeanor delinquent acts, defined herein as "focused acts," be handled by the school system, in conjunction with the parties, without the filing of a delinquency complaint with the Court.

WHEREAS, the parties acknowledge and agree that decisions affecting the filing of a delinquency complaint against a student, whether to place restraints on a student and/or place a student in a secure facility should not be taken lightly. As such, a transparent and cooperative agreement delineating the responsibilities of each party, when making a decision whether to divert a student from the Criminal Justice System is necessary and would promote the best interest of the involved students, the School System, other students and the greater community.

WHEREAS, the parties acknowledge and agree that this Memorandum of Understanding is a cooperative effort among the public agencies named herein to establish guidelines for the handling of school related delinquent acts against public disorder which are defined herein as "focused acts." The parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the handling of students who have committed one of the focused acts, as described herein, while simultaneously ensuring that each case is addressed on a case-by-case basis to promote a response proportional to the various and differing factors affecting each student's case.

WHEREAS, the parties acknowledge and agree that the manner in which each case or incident is handled by the parties is dependant upon the many factors unique to each student that includes, but is not limited to, the student's background, present circumstances, disciplinary record, academic record, general demeanor and disposition towards others, emotional stability, and other factors. Therefore, the parties acknowledge that students involved in the same or similar incidents may receive different and varying responses depending on the factors and needs of each student.

WHEREAS, the parties acknowledge and agree that while students may receive different and varying responses depending on the factors and needs of each student, the

decision whether to divert a student from the Juvenile/Criminal Justice System shall not be based upon the student's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability (or a perception of such disabilities), marital status, familial status, genetic information, domestic or sexual violence victim status or because of an association with a member of any of these protected classes.

NOW THEREFORE, the parties hereby agree to the following terms and conditions for the diversion of certain Philadelphia school students from the Juvenile/Criminal Justice System

I. Definitions

As used in this Agreement, the term:

- A. "Student" means a child under the age of 18 years currently enrolled in the Philadelphia School System.
- B. "Crime" means delinquent act or summary offense.
- C. "Delinquency Diversion Intake Center" means a co-location where representatives of DHS, the District, and the PPD will receive calls from officers in the field and who will have immediate access to student records to assist in determining the eligibility of students for diversion.
- D. "Focused Acts" means those summary and misdemeanor offenses limited to Pennsylvania Crimes Code § 912 Possession of Weapon on School Property, other than firearm, shotgun or rifle, §3503 Criminal Trespass, §5502 Failure of Disorderly Persons to Disperse upon Official Order, §5503 Disorderly Conduct, including both summary and misdemeanor level offenses, §5507 Obstruction of Highways and other Passageways, including both summary and misdemeanor level offenses, and Pennsylvania Controlled Substance, Drug, Devises and Cosmetic Act §780-113(16) Knowing and Intentional Possession of a Controlled Substance or Counterfeit Substance.

II. Terms of Agreement

- A. The parties understand and agree that a first time offense of a summary and/or misdemeanor "focused act," as defined herein, may not result in an arrest and/or filing of a delinquency complaint against a student, under the following conditions:
 - 1. Information provided by the school does not warrant juvenile justice assessment of the student,
 - 2. Information provided by DHS does not warrant juvenile justice assessment of the student,

3. The student and student's family agree to the terms and condition of the Delinquency Diversion Program set forth by the Department of Human Services.

B. Philadelphia School District (District)

1. The District understands and agrees that the effectiveness of the Delinquency Diversion Program is dependent upon the sharing of and/or access to certain student information. The District agrees that the Delinquency Diversion Program will help to insure that misconduct is swiftly and certainly addressed, and that the safety of all students and staff will be the paramount concern. The decision to divert must be made only after due consideration has been given to all of the relevant information about the student. Therefore, the District shall, to the extent permitted by law, provide student information, and consult and/or assist the Delinquency Diversion Program Intake Center in making final diversionary decisions.
2. The District understands and agrees that all School Police Officers (SPO) will be made aware of this Agreement and must act accordingly when responding to possible delinquent acts committed by students on or about District property.
3. The District understands and agrees that the responsibilities of the School Police Officers (SPO), under this Agreement, shall be as follows:
 - a. SPOs will contact the PPD, if probable cause is established that a student under the age of ten (10) years of age has committed a crime, but the student shall not be arrested. The role of the PPD under these circumstances is to document the incident and confiscate any weapon or contraband. The SPO shall direct the incident, along with the student, to the appropriate Principal for administrative action.
 - b. If probable cause is established that a student ten (10) years of age or older has committed a possible crime, the PPD shall be contacted.
 - c. Upon arrival of a PPD officer, the SPO shall consult with the PPD officer and assist PPD in interviewing the involved parties, and consulting with the student's teacher, counselor or advisor to determine whether the student is preliminarily eligible for the Delinquency Diversion Program.
 - d. If, after reviewing all the facts and circumstances, it is determined that the alleged offense is a disciplinary infraction only, as opposed to a delinquent act, the incident and all paperwork will be forwarded to the Principal for the appropriate administrative action.

C. Philadelphia Police Department (PPD)

1. The PPD understands and agrees that the effectiveness of the Delinquency Diversion Program is incumbent upon the proper staffing of the Delinquency Diversion Program Intake Center and that the Intake Center must be accessible during school hours and staffed with personnel with arrest powers and the lawful authority to access criminal record information. Therefore, the PPD agrees that it will staff the Delinquency Diversion Program Intake Center with two (2) certified Police Officers during school hours throughout the term of this Agreement.
2. The PPD understands and agrees that all PPD officers responding to delinquent acts occurring on or about District property will be made aware of this Agreement and act accordingly when responding to possible delinquent acts committed by students.
3. The PPD understands and agrees that the responsibilities, under this Agreement, of the PPD officers responding to alleged delinquent acts on or about District property shall be as follows:
 - a. PPD officers shall respond to calls by SPOs regarding possible delinquent acts committed by students on or about District property.
 - b. PPD officers will consult with the SPO, the student's teacher, counselor or advisor, interview all the parties and based upon the totality of this information, make a determination whether the student appears preliminarily eligible for the Delinquency Diversion program.
 - c. If the alleged offense is not a focused act, as described herein, or the student's record, demeanor and/or disposition towards others could create a hazard requiring detention to protect the person or property of others or the student or the treatment, supervision and/or rehabilitative needs of the student require it, the student shall be arrested and processed according to the standard departmental policies and the arresting officer shall complete all necessary PPD paperwork.
 - d. If the responding PPD officer determines that the student is preliminarily eligible for the Delinquency Diversion Program, the PPD officer shall contact the Delinquency Diversion Program Intake Center to determine if the student is currently under Court Supervision (*i.e. probation*) or otherwise eligible for diversion.
 - e. If the PPD officer receives confirmation from the Delinquency Diversion Program Intake Center that the student is otherwise ineligible for the Delinquency Diversion program, the student will be arrested and processed according to standard departmental policies and the officer will complete all necessary PPD paperwork.

- f. If the officer receives confirmation from the Delinquency Diversion Program Intake Center that the student is eligible for the Delinquency Diversion Program, the officers shall release the student and complete all necessary paperwork.
- g. If after reviewing all the facts and circumstances, it is determined that the alleged offense is a disciplinary infraction only, as opposed to a delinquent act, the incident and all paperwork will be forwarded to the Principal for the appropriate administrative action.
- h. The PPD will provide reports to the Court and Community Services Committee every 90 days indicating the number of students diverted, the would be charges and the plan of action. The report will also identify any challenges faced by diverting officers related to information sharing, etc.

D. Department of Human Services (DHS)

- 1. The DHS understands and agrees that the effectiveness of the Delinquency Diversion Program is dependent upon the sharing of and/or access to certain student information.
- 2. The decision to divert must be made only after due consideration has been given to all of the relevant information about the student. Therefore, DHS shall, to the extent permitted by law, provide student information, and consult and/or assist the Delinquency Diversion Program Intake Center in making final diversionary decisions.
- 3. DHS understands and agrees that the effectiveness of the Delinquency Diversion Program is incumbent upon the proper staffing of the Delinquency Diversion Program Intake Center and that the Intake Center must be accessible during school hours and staffed with DHS personnel with adequate resources and equipment to access student's records, juvenile court files, and any other available records necessary to assist in the diversion decision processes. Therefore, DHS agrees that it will staff the Delinquency Diversion Program Intake Center with two (2) DHS employees during school hours throughout the term of this Agreement.
- 4. DHS understands and agrees that the DHS personnel assigned to the Delinquency Diversion Program Intake Center shall notify DHS when a student is eligible for diversion.
- 5. DHS understands and agrees that upon notification by the Delinquency Diversion Program Intake Center, it shall coordinate and conduct home visits with the student and his or her family within seventy two (72) hours from the time notified by the Delinquency Diversion Program Intake Center to discuss the Diversion Program and the Program's terms and conditions.

6. DHS understands and agrees that if the student and his or her family do not agree to the terms and conditions of the Diversion Program, the student will no longer be eligible for any possible future diversion and the Delinquency Diversion Program Intake Center shall be notified of this fact, in writing.

E. District Attorney's Office

The Philadelphia District Attorney's Office (DAO) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the DAO agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

F. Court of Common Pleas, Family Court, Philadelphia County (Court)

The Court understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the Court agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

G. Department of Behavioral Health and Intellectual Disability Services

The Department of Behavioral Health and Intellectual Disability Services (DBHIDS) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the DBHIDS agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

H. Defender Association of Philadelphia

The Defender Association of Philadelphia (Defender Association) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the Defender Association agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

I. Pennsylvania Department of Public Welfare

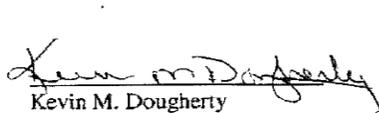
~~The Pennsylvania Department of Welfare (DPW) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the DPW agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.~~

III. **Duration and Modification of Agreement**

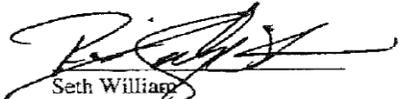
This Agreement shall become effective immediately upon its execution by signature and shall remain in force and effect until such time as terminated by any party to the Agreement. The Agreement may be modified at any time by amendment to the Agreement. The parties agree to meet quarterly to provide oversight of the Agreement and make recommendations to the heads of each agency on any modifications to the Agreement.

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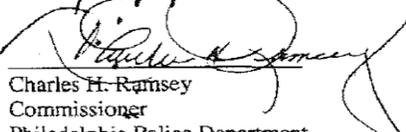
IN WITNESS WHEREOF, the parties hereto, intending to cooperate with each other, for the best interest of Philadelphia students, have caused this Memorandum of Understanding to be duly executed as of the date last written.


Kevin M. Dougherty
Administrative Judge
Court of Common Pleas
Family Court
Philadelphia County

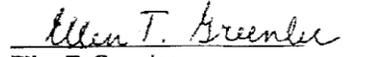
Date: _____


Seth Williams
Philadelphia District Attorney

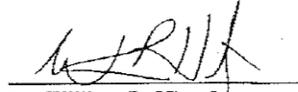
Date: 6/25/14


Charles H. Ramsey
Commissioner
Philadelphia Police Department

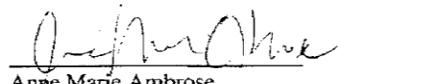
Date: _____

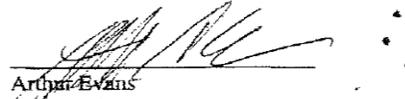

Ellen T. Greenlee
Chief Defender
Defender Association of Philadelphia

Date: 7/24/14


Dr. William R. Hite, Jr.
Superintendent
Philadelphia School District

Date: _____

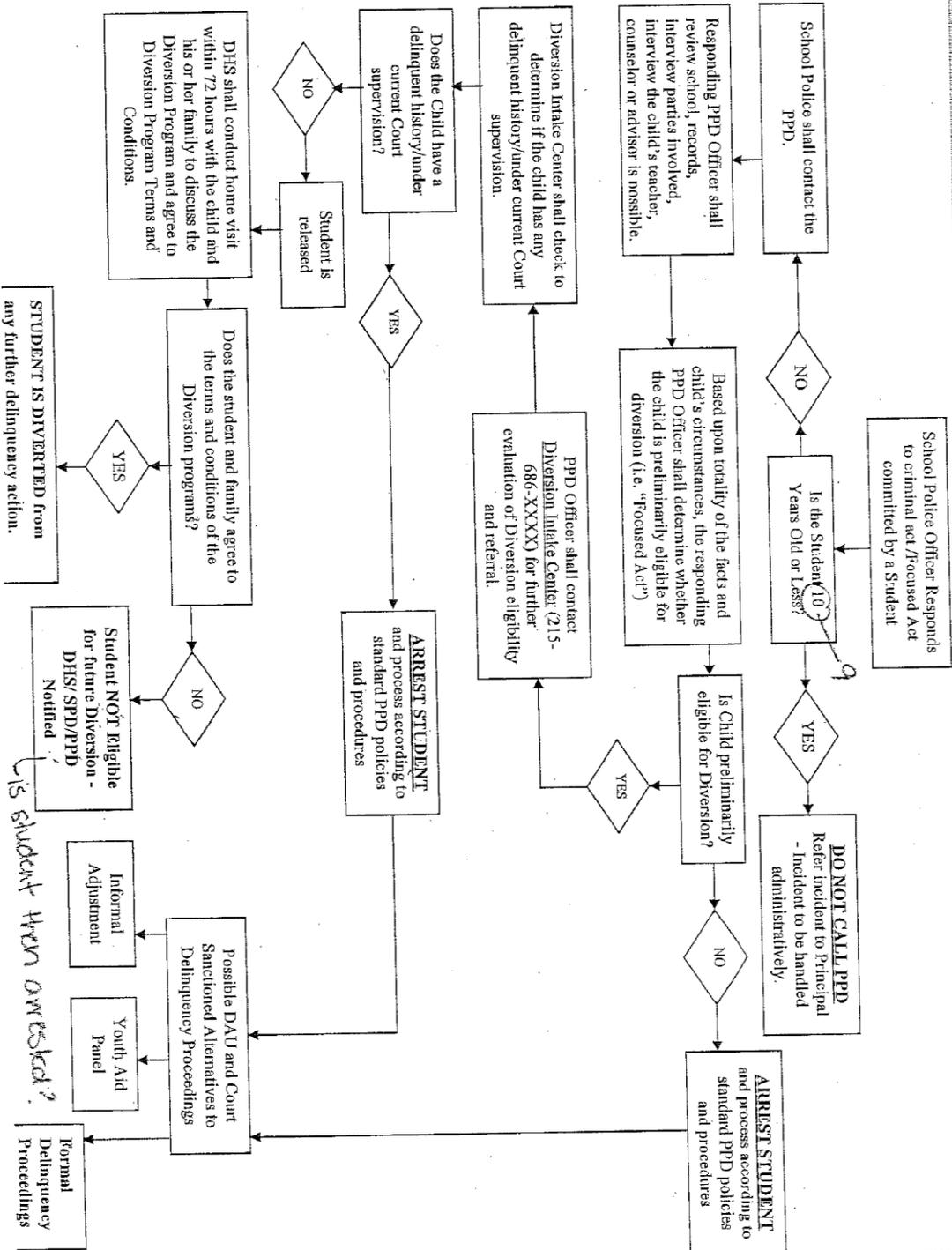

Anne Marie Ambrose
Commissioner
Philadelphia Department of Human Services
Date: 6/17/14


Arthur Evans
Commissioner
Philadelphia Department of Behavioral
Health and Intellectual Disability Services
Date: 9-12-14

~~Rebecca Blumfeld-Hampton
Director of Southeast Regional Office
Beverly Hills Department of Public Welfare~~

~~Date: _____~~ DPW WITHDRAWN
FROM AGREEMENT
7/16/2014
DLC K. [Signature]

Police Diversion Program Protocol (updated 4/15/14)



Appendix D

The School District of Philadelphia
 The Office of Student Rights and Responsibilities
 440 North Broad Street, 2nd Floor
 Philadelphia, Pennsylvania 19130

Request for EH21 Disciplinary Hearing Waiver For a Weapons Violation
 Students Grades 6-12

Student Name: _____	Student ID#: _____
School Name: _____	School Code: _____
Principal's Name: _____	Date: _____
Disruptive Behavior(s) and Rule(s) violated: _____	

Request for EH21 Disciplinary Hearing Waiver
The request for EH21 Waiver helps to further determine whether or not the student's actions warrant a disciplinary transfer. The notice should consider the following factors, for discussion, prior to making your recommendation as to whether the student should be placed in a Transition School or remain in their home school:
<ul style="list-style-type: none"> • Overall Academic Performance (grade average, class participation, completed assignments, extra curricula involvement) • Attendance (Total unexcused absences, class cuts and lateness) • Interventions (Total pink slips, ISS, OSS, RtII and involvement with peer mediation and/or restorative practices) • Behavioral History (Number of previous EH-21 transfers) • Miscellaneous (Parental involvement, involvement with interagency and other services, pattern of mobility at non-disciplinary school transfers) • Is the victim still in the building

Taking into consideration the above factors please explain your reason for requesting that the student REMAIN at your school.
_____ _____ _____ _____ _____

Extenuating Circumstances (Unusual/ extreme situations that may have led to misconduct such as being a victim of crime, trauma, behavioral/ mental health concerns, etc. taking into consideration the above factors).
_____ _____ _____ _____ _____

Principal (Print Name/ Signature _____)	Date _____
Parent/ Guardian Name/ Signature _____	Date _____

Appendix E



THE SCHOOL DISTRICT OF
PHILADELPHIA
BUILDING A BETTER DISTRICT

Request for EH-21 Disciplinary Hearing Waiver Protocol

The **"Request for EH-21 Disciplinary Hearing Waiver"** is a tool created to continue our efforts to maintain a safe and supportive learning environment for all students. It is extremely important that the rules and requirements of our Code of Student Conduct are understood; though, there may be instances that require targeted strategies, for specific students that require additional interventions and support.

What is the Request for Disciplinary Hearing Waiver?

- A "waiver" to request that a student remain in your building;
- A tool to assist in determining if a student should have a discipline hearing; and
- A tool to assist in determining if a student should be transferred to a disciplinary school.

What should you do when a serious incident occurs in your building but there are extenuating circumstances related to the incident?

Discipline (EH-21) referrals should be submitted to the Office of Student Rights and Responsibilities within 7 days of the incident accompanied by an EH-21 Disciplinary Hearing Waiver as the face page of the referral packet. (For students with weapons grades k-5, only a picture and statements are required with the waiver)

What factors should be considered when submitting a Request for EH-21 Disciplinary Waiver?

A rationale that takes into account the following factors:

- Overall Academic Performance (grade average, class participation, completed assignments, extra curricula involvement)
- Attendance (Total unexcused absences, class cuts and lateness)
- Interventions (Total pink slips, ISS, OSS, Rtl and involvement with peer mediation and/or restorative practice)
- Behavioral History (Number of previous EH-21 transfers)
- Miscellaneous (Parental involvement, involvement with interagency and other services, pattern of mobility/transfer between non-disciplinary schools)

What happens after the Request for EH-21 Disciplinary Hearing Waiver has been submitted?

All discipline (EH-21) referrals submitted with a request for an EH-21 waiver for a weapon violation will be reviewed by the Expulsion Committee. All other requests for disciplinary waivers (non weapons for grades 6-12) will be approved by the Deputy for the Office of Student Rights and Responsibilities.

For more information contact the Office of Student Rights and Responsibilities at phone number (215) 400 - 4830.

Office of Student Rights and Responsibilities / Revised Aug 2014

Appendix F

Office of School Safety Incident Reporting Protocol

Purpose:

- ❖ To have the Office of School Safety be the sole office responsible for reporting and recording ALL incidents which will standardize reporting and take the onus of reporting off of the Principal or designee.

REPORTING PROCEDURES

BY WHOM

Any employee.

TO WHOM

School Police Officer, Principal or principal's designee.

WHEN

As soon as possible, after any immediate medical and security needs have been met.

WHAT HAPPENS NEXT

- School Police Officer or in buildings where there is no School Police Officer, Principal or principal's designee calls School Police Incident Control Desk, 215-400-6100. If principal or designee does not report the incident to School Police, a staff member may report the incident.
- School Police Officer or School Police Supervisor, determines whether to notify School Police Incident Control Desk, 215-400-6100 and/or Philadelphia Police, 911.
- If there is disagreement between principal or designee and School Police Officer, the School Police Officer calls the Incident Desk for further review, who will then dispatch a Supervisor to the school. The Officer informs Lieutenant of all relevant facts and Lieutenant decides whether incident is reported to School Police Incident Control Desk and/or Philadelphia Police via 911.
- Principal or designee files an online SIMS report (EH-31) within two days.
- Principal determines what discipline to impose on student.

NOTE: Any notification to Philadelphia Police must be made by calling 911, even if there is a Philadelphia Police Officer present.

Summary Frequently Asked Questions

What to report?

Everything!

How do I Report Incidents?

Incidents are reported to the Incident Control Desk by calling 215-400-6100.

- **OR in non-emergency cases:**

Faxing the report to 215-400-4712

Emailing the report to seriousincident@philasd.org

Who is responsible for reporting incidents?

ANYONE – however, the School Police Officer(s) in your building will be responsible for calling all incidents to the Incident Control room and will also call the Philadelphia Police when necessary.

What if I do not have a school police officer or my officer is absent?

Principal or designee will call the Incident control Desk.

What if I am not sure how to handle a serious incident?

Call the Incident Desk for advice and guidance.

What if there is a disagreement between the School police Officer or yourself with the Philadelphia Police department?

OR

What if I do not agree with the how the incident is being handled by the School Police Officer?

Call the Incident Desk for further review, who will then dispatch a Lieutenant to the school.

Other Issues

IF AT ANYTIME YOU NEED ADVICE OR HAVE A QUESTION, PLEASE CALL THE INCIDENT DESK

Types of **non-emergency** incidents (about 25% of all calls) that can be faxed or emailed to our incident desk:

- Accident or illness incidents that do not require outside medical attention
- School District vehicle accidents with no injuries
- Graffiti incidents - that are not racial or threatening in nature

Office of School Safety

Types of Incidents to Report

Abductions & Attempts*
Accidents & Illnesses
Accidents to School District Vehicle
Assaults*
Bomb Scares*
Bullying
Burglary*
School Bus Incidents
Computer Crimes
Disorderly Conduct*
Drug & Alcohol Offenses*
Fire & False Alarms (Arson)*
Graffiti (Call 911 if racial or threatening in nature)*
Harassment
Child Abuse*
Hate Crimes*
Morals Offenses (sexual incidents)*
Open Property
Pickets/Demonstrations
Property Damage (if over \$5000 call 911)*
Robbery*
Suicide Attempts/Threats
Theft*
Threats (Verbal & Written)*
Trespassing*
Vandalism
Weapons Offenses*

*Must be reported to the Philadelphia Police Department

¹ School District of Philadelphia Memorandum of Understanding dated July 25, 2012

² Appendix A: Possession of weapons prohibited (a.k.a. "Act 26")

³ 24 P.S. §13-1310-A(b)(8)

⁴ 24 P.S. §13-1310-A(b)(6)

⁵ Incidents involving sexual misconduct, sexual consent, indecent exposure, indecent assault, forced oral sex, rape and attempted rape

⁶ The District does not provide the contact information to our office for victims of morals offense incidents

⁷ Data provided by School Reform Commission

⁸ Data provided by School Reform Commission

⁹ See Appendix B: Memorandum of Understanding – Philadelphia Police Department And The School District of Philadelphia

¹⁰ OSSA does not receive from the school district, per their interpretation of 24 P.S. §13-1310-A, incidents coded as thefts, accidents, property damage and child abuse reports

¹¹ 24 P.S. §13-1310-A(b)(1)(i)

¹² Appendix A: Possession of weapons prohibited (a.k.a. "Act 26")

¹³ Appendix A: Possession of weapons prohibited (a.k.a. "Act 26")

¹⁴ See Appendix D: Request for EH21 Disciplinary Hearing Waiver For a Weapons Violation Students Grades 6-12

¹⁵ See Appendix E: Request for EH21 Disciplinary Hearing Waiver Protocol

¹⁶ See Appendix C: Memorandum of Understanding Philadelphia Police Dept. Diversion Program

¹⁷ Appendix F: Office of School Safety Incident Reporting Protocol

¹⁸ 2015-2016 SDP Code of Conduct