

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

ANNUAL REPORT FOR 2013-2014

**Kelley B. Hodge, Esq.
Safe Schools Advocate**

July 1, 2015

Mr. Josh Shapiro
Chairman
Pennsylvania Commission on Crime and Delinquency
3101 North Front Street
Harrisburg, PA 17110

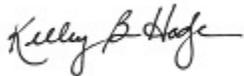
Dear Chairman Shapiro:

Enclosed please find the annual report of the Office of Safe Schools Advocate for the 2013-14 fiscal year. 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, 2013 through June 30, 2014.

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

Respectfully submitted,



Kelley B. Hodge, Esq.
Safe Schools Advocate

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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, the OSSA was reassigned to be housed under the Pennsylvania Commission on Crime and Delinquency (“PCCD”). Per the Act, the OSSA powers and duties are defined (in part) as follows:

1. To monitor, review, and analyze the District’s reporting practices to the 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.
2. 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
3. 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 memorandum of understanding.
4. To monitor the District’s compliance with the mandatory expulsion requirements of 24 P.S. §1317.2 (“Act 26”).²
5. To receive inquiries from school staff, parents, or guardians of students who are victims of acts of violence on school property.
6. 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.
7. 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.
8. To review and analyze court decisions applicable to the school 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.
9. 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.

Kelley B. Hodge, Esq. is the Safe Schools Advocate (“the Advocate”) and has served in this capacity since December 2011. The OSSA has been open and operating as a victim advocacy office since December 5, 2011. The 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.

The 2013-2014 school year was the second full academic year under the leadership of school 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 a positive school climate and safety.

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 achievement of the District’s goal for a positive and safe learning environment for all students.

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

Executive Summary

Annually, the OSSA is required by law to prepare a 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 of the Senate Committee on Education and the Chairperson of the House of Representatives Committee on Education.³

The 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:

1. **Increased Communication.** Similar to the Advocate's conclusions in past annual reports, in order for the District to significantly reduce school violence, the District must continue to increase 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.
2. **Regular Review of District Policies and Comparison with Data Results.** 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 ever growing change in school climate and culture, policies must be routinely reviewed, and there must be a willingness to adapt policies to accommodate technological and social changes. Additionally, external data collection tools, such as the Pennsylvania Youth Survey (PAYS), should be utilized that would serve to help the District more readily identify critical needs and how best to target those needs with limited resources. Incidentally, PAYS is offered by PDE⁵, DDAP⁶ and PCCD in partnership as a free tool in data collection to help identify community-based risks, the level of need and, thus, expedite the application of appropriate resources. To date, only small parochial and charter schools in Philadelphia have participated,⁷ and their results demonstrate needs of youth who are underserved and experiencing, or exposed to, depression, drugs and alcohol use/abuse and thoughts of suicide, just to name a few of the key categories. We continue to hope the District will reconsider its future participation and participate in the survey in the fall of 2015.
3. **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 strategies and techniques. Continued training on best practices regarding all aspects of school violence and promoting mentoring relationships are essential for District personnel.

4. **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 two annual reports issued by the Advocate.
5. **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.
6. **Professional Development.** Everyone involved in the school discipline process must be on the same page in order for the system to work. Educators and administrators alike should be informed and aware as to the function of the 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. While the Advocate did observe more inclusion of victims in disciplinary hearings, which is promising, there remains a continued need to promote a victim-centered approach in addressing a violent incident at every level of the disciplinary process.

Overview of OSSA Functions

Office of Safe Schools Advocate Daily Operations

During the 2013-14 school year, the 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, the OSSA reviewed approximately 30 to 50 individual incidents pulled from District's Serious Incident Management System ("SIMS") and forwarded to us by the School District. OSSA reviewed approximately 6,558 of the District's incidents, which involved 4,438 victims. In response, the office sent out approximately 2,087 victim outreach letters notifying victims of the existence of the OSSA and how the office could assist them.

The OSSA continues to be accessible through numerous mediums, such as phone, fax, emails, as well as people walking into the office seeking assistance. In 2013-14, OSSA received 941 calls, 37 e-mails and 256 drop-ins inquires/requests for assistance or guidance with the disciplinary process of the Philadelphia School District or, in certain cases, with the juvenile delinquency hearing process of the Philadelphia Family Court. OSSA continued to provide signage, posters and brochures to schools and victim services organizations to promote the availability of the office as a resource. Additionally, OSSA continue to have an active communication with members of City and Commonwealth legislative bodies focusing on school safety and violence prevention. And again, the support received from these bodies and their communication was significant in promoting the success of OSSA in having a direct impact on combating violence and enhancing safety in the Philadelphia school community.

Cases are opened by the 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. The 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 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, 2013 through June 30, 2014, the OSSA opened 146 individual victim case files and maintained approximately 12 charter and 31 public school files based on school-related violence or other incidents reported by parents/guardians or school personnel.

Lastly, the OSSA also increased its use of its website in 2013-14 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.

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, for which it provided notification of the scheduling of these hearings to the OSSA.

The OSSA was present for, or participated in, approximately 100 disciplinary hearings during the 2013-14 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 the 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. The OSSA was present or participated in 34 expulsion hearings from September 2013 through June 30, 2014.

Based on the reported data from the District’s Office of Student Rights and Responsibilities, there were 625 disciplinary hearings held in 2013-14. Of those, 345 students received disciplinary transfers, 166 students received lateral transfers, or received a behavioral contract in lieu of being transferred from their current school assignment versus being transferred to a disciplinary school setting. In addition, on 53 occasions, principals elected to waive having a student transferred from their school, based on the disciplinary infraction and the student’s history.⁸ Out of the 625 hearings held, 158 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 64 expulsion hearings were held during the 2013-14 school year. The hearing officers recommended to the SRC that 53 students be expelled either temporarily or permanently from the District. Out of these 53, 45 students were expelled from the District.⁹

Additional OSSA Activities

The OSSA continued to take a more 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 addressing all levels of school violence and promoting a positive climate for students. What remains uncontroverted is that all vested 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. Therefore, the Advocate, in addition to supporting victims on a case-by-case basis in hearings and in schools, also participated in, or facilitated the following:

- Provided funding to the District when requested for conflict resolution and positive community engagement training for school staff and administrators. The training was conducted by staff of Good Shepherd Mediation and the funding was provided directly to Good Shepherd Mediation.
- Provided funding to the District when requested for Conflict Resolution Education Training in Education (“CRETE”) training for school district teachers and administrators. The training was conducted by Dr. Tricia Jones, Ph.D. from Temple University. Funding was provided directly to Temple University.
- Funded the continued availability of Outward Bound experiential learning, training and leadership program to students at a local high school to supplement previous training offered and build on leadership and positive decision-making skills for high school students.¹⁰
- Assisted in re-introducing the *Life Skills Training* (LST) curriculum to the District and provided supplemental funding support. The District implemented the research-based LST curriculum as a vehicle to prevent high-risk behaviors, including substance abuse and violence and improve social skills among middle school students (grades 6-8) in ten schools in the District with the option of adding two additional schools. Over the course of the 2013/14 school year, a total of approximately 10-40 teachers received the training and materials necessary to begin LST implementation with 300-900 6th-graders. These teachers will be invited back during fall 2014 for professional development in order to expand the curriculum to 7th grade students. Finally, in fall 2015, teachers will receive professional development in order to expand the curriculum to 8th graders. By the end of the 2015-2016 program year, it is expected that 10-40 District teachers representing 6th, 7th, and 8th grade students will have implemented LST with both fidelity to the model, and success in terms of measurable student outcomes.¹¹
- Provided funding to the Committee for Children allowing the District to implement Social and Emotional Learning (“SEL”) for elementary students in selected schools, particularly Farrell and Bethune elementary schools.
- Collaborated with the Philadelphia District Attorney’s Office to launch an Anti-Bullying Awareness Campaign along with District Attorney R. Seth Williams. The Advocate and DA 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. 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 and public praise for a job well done.
- Participated with the US Attorney’s office in their Civic Engagement and Education efforts held at Strawberry Mansion High School throughout the year.
- Coordinated and collaborated with the members of Good Shepherd Mediation, the District Attorney’s office, Public Defender’s Office and a Juvenile Court Judge to address girl group violence in a local high school.

- Conducted a joint discussion/meeting at Bartram High School along with DA Seth Williams in response to escalating violence and an assault that resulted in serious injury to a school climate officer.
- Organized and facilitated weekly school safety phone conferencing citywide with various stakeholders.¹² The weekly calls included 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 arrival and dismissal 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, the OSSA sent letters, brochures and posters to citywide victim services organizations and police districts. The Advocate sought to encourage referrals to the 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, including the schools listed on the persistently dangerous list for 2013-14.¹³ The Advocate attended meetings with the principal and/or climate staff and often had the opportunity to observe the classroom instruction and overall atmosphere in the schools. In addition to those noted above, the Advocate also visited approximately 20 schools which were a combination of traditional public, special admission and charter schools encompassing grades K-12. Again, the Advocate met with principals and teaching staff, observed classroom transition time, the main office staff interaction with students and parents and in-class instruction. These visits were most informative and contributed greatly to the Advocate's ability to make the recommendations contained in this report.

Data Collection and Analysis

The 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 on daily data sharing of reported incidents.¹⁴ By law, the information provided by the District to the Office of Safe Schools within 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, 2013 and June 30, 2014.¹⁵

Additionally, the OSSA reviewed the data imported from the School District of Philadelphia’s serious incident reporting database and generated the graphs and comparative analysis of the coding of all reported incidents by the District.

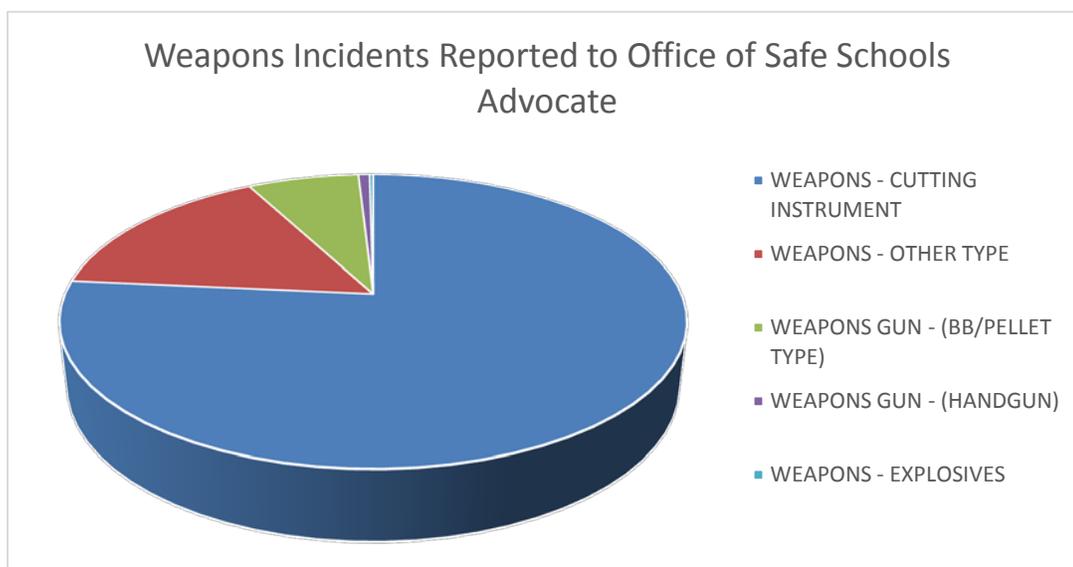
I. Incidents Reported by the School District of Philadelphia to the Pennsylvania Department of Education Compared to Incidents Reported to the OSSA (see next page)

Reported by Philadelphia School District to PA Dept. of Education		Reported by School District to Office of Safe Schools Advocate	
KIDNAPPING/INTERFERENCE WITH CUSTODY OF	1	ABDUCTIONS & ATTEMPTS	14
SALE/POSSESSION/USE OR UNDER THE INFLUENCE	18	ALCOHOL - POSSESSION, USE, FOUND	18
AGGRAVATED ASSAULT ON STUDENT	96	ASSAULT ON STUDENT	866
SIMPLE ASSAULT ON STUDENT	704		
AGGRAVATED ASSAULT ON STAFF	162	ASSAULT ON ADMINISTRATOR	18
SIMPLE ASSAULT ON STAFF	252	ASSAULT ON TEACHER	211
		ASSAULT ON SCHOOL POLICE	128
		ASSAULT ON EMPLOYEE	58
		ASSAULT ON OTHER PERSON	35
ARSON	25		
BOMB THREATS	2	BOMB SCARE	6
		BOMB SCARE W/ EVACUATION	2
BULLYING	33	BULLYING - OF STUDENT	34
BURGLARY	6	BURGLARY	40
DISORDERLY CONDUCT	824	DISORDERLY CONDUCT (DISRUPTION)	836
FIGHTING	587	DISORDERLY CONDUCT (FIGHTING)	593
MINOR ALTERCATION	953	DISORDERLY CONDUCT (GANG RELATED)	2
POSSESSION/USE OR SALE OF TOBACCO	7	DISORDERLY CONDUCT (TOBACCO USE)	7
		DISORDERLY CONDUCT W/INJURY	857
		FIRE - INCENDIARY	72
SEXUAL HARASSMENT	14	HARASSMENT INVESTIGATION	67
ALL OTHER FORMS OF HARASSMENT/INTIMIDATI	25		
		INAPPROPRIATE CONDUCT	150
		INVESTIGATION - STUDENT(S) FOLLOWED	52
		INVESTIGATION OF MISSING PROPERTY	70
		INVESTIGATION OF PERSON	124
		INVESTIGATION OF PROPERTY	49
		INVESTIGATION OF SHOOTING	3

Reported by Philadelphia School District to PA Dept. of Education		Reported by School District to Office of Safe Schools Advocate	
POSSESSION/USE OF A CONTROLLED SUBSTANCE	216	MARIJUANA - POSSESSION, USE, FOUND	223
		DRUGS - POSSESSION, USE, FOUND	23
SALE/DISTRIBUTION OF A CONTROLLED SUBSTANCE	48	MARIJUANA - SALE/DISTRIBUTION	42
		DRUGS - SALE/DISTRIBUTION	6
INVOLUNTARY SEXUAL DEVIATE INTERCOURSE	8	MORALS - FORCED ORAL SEX	8
INDECENT ASSAULT	99	MORALS - INDECENT ASSAULT	104
INDECENT EXPOSURE	24	MORALS - INDECENT EXPOSURE	27
OBSCENE AND OTHER SEXUAL MATERIALS AND P	51	MORALS - SEXUAL MISCONDUCT	53
		MORALS OFFENSE - SEXUAL CONSENT	11
RAPE	4	MORALS OFFENSE (RAPES & ATTEMPTS)	7
ROBBERY	74	ROBBERY OF OTHER PERSON	1
		ROBBERY OF STUDENT	121
SUICIDE - ATTEMPTED	3	SUICIDE - ATTEMPTS & THREATS	55
THEFT	122		
THREATENING SCHOOL OFFICIAL/STUDENT	519	THREATS	544
CRIMINAL TRESPASS	82	TRESPASSING	84
		TRUANCY INVESTIGATION	13
VANDALISM	214	VANDALISM PERSONAL PROPERTY	30
		VANDALISM SCHOOL PROPERTY	454
POSSESSION OF CUTTING INSTRUMENT	75	WEAPONS - CUTTING INSTRUMENT	335
POSSESSION OF KNIFE	229		
POSSESSION OF OTHER WEAPON	68	WEAPONS - OTHER TYPE	69
POSSESSION OF BB/PELLET GUN	30	WEAPONS GUN - (BB/PELLET TYPE)	30
POSSESSION OF HANDGUN	2	WEAPONS GUN - (HANDGUN)	3
POSSESSION OF OTHER FIREARM	1		
POSSESSION OF EXPLOSIVE	1	WEAPONS - EXPLOSIVES	1
		DEATH OF STUDENT	1
		DEATH OF EMPLOYEE	1
Grand Total	5579	Grand Total	6558

What is noteworthy regarding the above table is that the number of incidents reported to the Pennsylvania Department of Education for the 2013-14 school year is lower than the total number received by the OSSA. The Advocate does not have any known reason for this disparity.

II. Weapons Reported by the School District of Philadelphia



WEAPONS - CUTTING INSTRUMENT	335
WEAPONS - OTHER TYPE	69
WEAPONS GUN - (BB/PELLET TYPE)	30
WEAPONS GUN - (HANDGUN)	3
WEAPONS - EXPLOSIVES	1
Grand Total	438

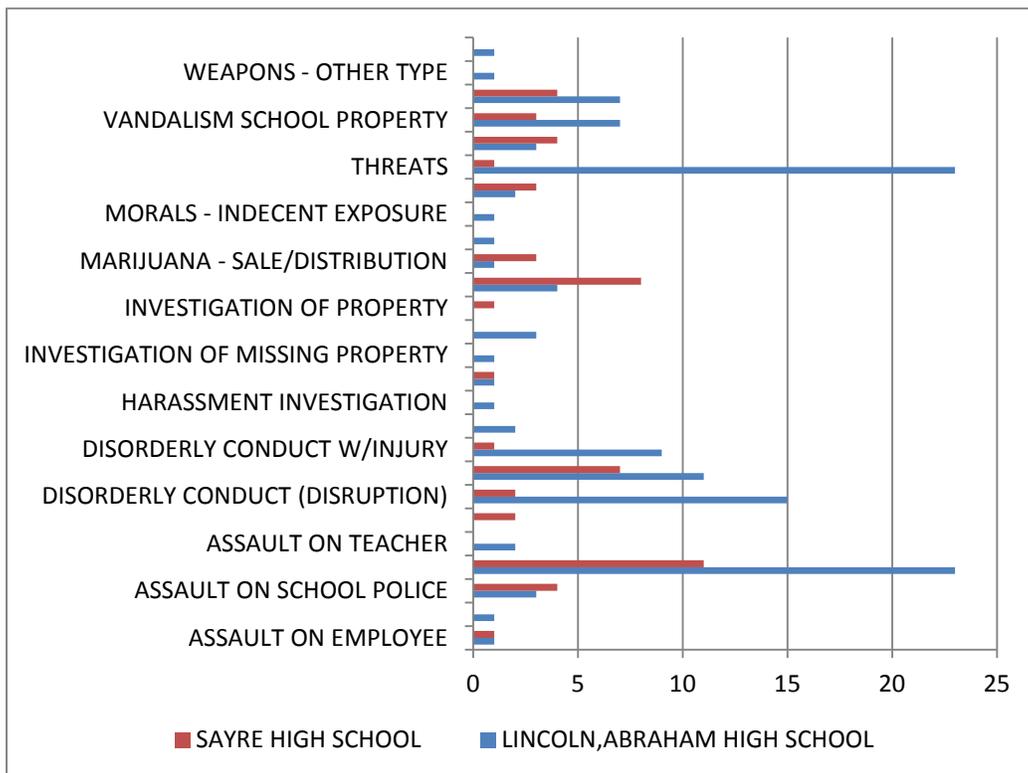
Weapons remain a concern and issue for the School District of Philadelphia. Weapon violations rank 5th in overall incidents reported by the District, behind disorderly conduct, assaults, threats, and vandalism. Also, this ranking exists despite knowing that some incidents where weapons are present, recovered or involved, are either not reported at all or reported as incidents that do not reflect the presence of weapon (i.e. disorderly conduct).

Both the Advocate and the District are aware that many of these youth, who travel through dangerous areas of the city, are often armed for personal safety reasons. However, Act 26 is clear in its mandate.¹⁶ 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.¹⁷ However, 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 tool of a *weapons waiver policy*. In May 2014, a new 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 Association was implemented. The program resulted in many incidents, which would have previously led to a report to the Philadelphia Police Department (“PPD”) and arrest pursuant to Act 26 for weapons, leading to a report to PPD, no arrest, and therefore, lowers numbers of incidents that would normally count as “persistently dangerous incidents.”

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, despite weapons still being found in schools or on school property. Further, it offers little to no comfort for parents of students who, while possibly not a direct victim of an incident of a student with a weapon, may feel the overall environment of their child is compromised and less safe because a student who brought a weapon on school grounds and remains in the school.

III. Incidents in the schools named Persistently Dangerous for 2013-2014

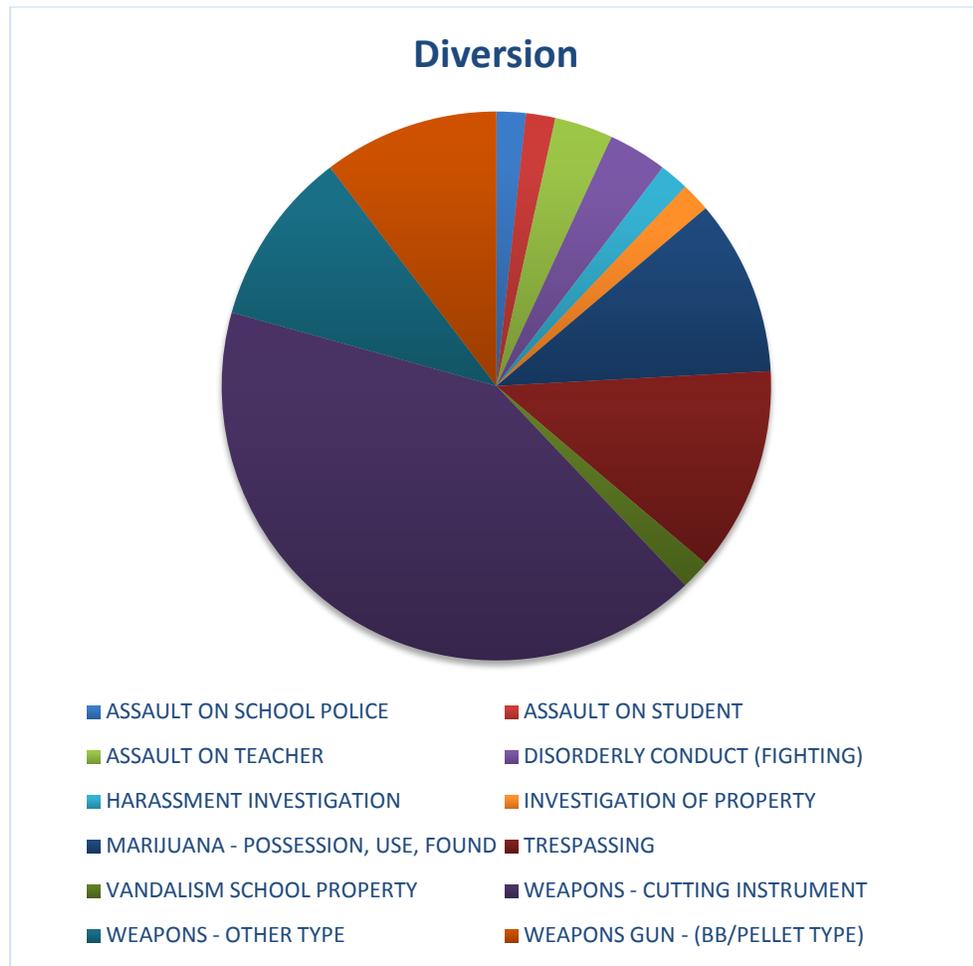


Incident Code	LINCOLN, ABRAHAM HIGH SCHOOL		SAYRE HIGH SCHOOL
ASSAULT ON EMPLOYEE	1		1
ASSAULT ON OTHER PERSON	1		0
ASSAULT ON SCHOOL POLICE	3		4
ASSAULT ON STUDENT	23		11
ASSAULT ON TEACHER	2		0
BURGLARY	0		2
DISORDERLY CONDUCT (DISRUPTION)	15		2
DISORDERLY CONDUCT (FIGHTING)	11		7
DISORDERLY CONDUCT W/INJURY	9		1
FIRE - INCENDIARY	2		0
HARASSMENT INVESTIGATION	1		0
INVESTIGATION - STUDENT(S) FOLLOWED	1		1
INVESTIGATION OF MISSING PROPERTY	1		0
INVESTIGATION OF PERSON	3		0
INVESTIGATION OF PROPERTY	0		1
MARIJUANA - POSSESSION, USE, FOUND	4		8
MARIJUANA - SALE/DISTRIBUTION	1		3
MORALS - INDECENT ASSAULT	1	0	
MORALS - INDECENT EXPOSURE	1	0	
ROBBERY OF STUDENT	2		3
THREATS	23		1
TRESPASSING	3		4
VANDALISM SCHOOL PROPERTY	7		3
WEAPONS - CUTTING INSTRUMENT	7		4
WEAPONS - OTHER TYPE	1		0
WEAPONS GUN - (HANDGUN)	1		0
Grand Total	124		56

In December 2013, Deputy Police Commissioner Kevin Bethel of the Philadelphia Police Department began discussions with various entities in the City of Philadelphia about the creation of a school-based diversionary program. The goal of the program was to divert low level offenses that take place in or around a school so that those students can avoid contact with the juvenile justice system and receive early intervention and community-based services. Both the concept and goal were and remain admirable.

The Advocate met with the Deputy Police Commissioner to answer any questions he had and to offer any assistance in the development of the protocol for the program. In May 2014, the program was implemented. At the time of its implementation, the MOU between the Administrative Judge of the Family Court of the First Judicial District, DHS, PPD, District Attorney's Office, Department of Behavioral Health and Public Defender's Office was still in its draft form. However, the working document was used as the framework to begin the program.

IV. Incidents Resulting in Diversion Program for Defendants



ASSAULT ON SCHOOL POLICE	1
ASSAULT ON STUDENT	1
ASSAULT ON TEACHER	2
DISORDERLY CONDUCT (FIGHTING)	2
HARASSMENT INVESTIGATION	1
INVESTIGATION OF PROPERTY	1
MARIJUANA - POSSESSION, USE, FOUND	6
TRESPASSING	7
VANDALISM SCHOOL PROPERTY	1
WEAPONS - CUTTING INSTRUMENT	24
WEAPONS - OTHER TYPE	6
WEAPONS GUN - (BB/PELLET TYPE)	6
Grand Total	58

The data noted above reflects the incidents reported as deferred since May 2014 through the end of the school year. The Advocate believes that the diversion program is good in its intent and is hopeful that its implementation will be followed with fidelity to what is stated in its protocol. The Advocate looks forward to continuing dialogue with the Philadelphia Police Department and other partner agencies to ensure that the diversion program is producing the results and providing the services it intends.

Observations and Recommendations

Similar to the Advocate's conclusion in the 2012-13 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

At the request of the Superintendent, the designated point of contact for much of the communication between OSSA and the Philadelphia School District was through the Chief of Student Support Services. As such, to accommodate the desire of the Superintendent to remain abreast of matters of significance regarding safety and violence in the school district of Philadelphia, the Advocate would direct most of the office's communication to the Chief of Student Services. Unfortunately, while the protocol seemed fairly clear and efficient in theory, it was not as effective in practice. Therefore, by the end of the school year the Advocate concluded that, moving forward, the protocol would need to be reexamined and revised in order for this office to remain effective in assisting victims, and confident in the data and information that was being produced by the district regarding incidents of violence in schools. This was done, and a new protocol was put in place through an agreement with the Superintendent for the 2014-15 school year.

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 clearly and repeatedly the policies and procedures designed to keep children safe in schools. As a part of its professional development offerings, 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 the OSSA. The OSSA does not receive the data on all incidents reported through the Serious Incident Management Database. OSSA 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 the OSSA.
- The OSSA 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, OSSA is unable to provide outreach in a timely manner to an important victim community. In 2014, there were 210 morals incidents reported, however, the OSSA was unable to contact over 200 of these victims due to the unavailability of their contact information.
- The District should implement procedures that assure victims of school-based incidents are given the same level of consideration as all other interested parties in a reported incident of violence.
- The Superintendent should issue a directive to his administrators outlining the rights and expectations of victims of a school-based incident. 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 that directly work on addressing school safety and climate. 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 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 perpetuate an unsafe school climate.
- The OSSA should continue to facilitate a weekly phone conferencing system between School District leadership, Philadelphia Police, 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

- The Advocate 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, Consent decrees and any other protocols or procedures that would address the subject of violence in school and the promotion of school safety.
- 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.
- The Advocate has communicated with administrators who have expressed unease with the *weapons waiver policy* process. In general, the existence of a policy that affords school administrators the ability to exercise this sort of discretion is in conflict with Act 26. In short, the question that needs to be asked, and answered, is whether a weapons waiver is a valid policy in light of Act 26, and if so, what specific directions and options are given to ensure the weapons waiver policy is being applied consistently and with the appropriate outcome(s). Because both questions remain unanswered, 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 the 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 ensure the safety of students, parents and administrators.
- The District should participate in the next distribution of the Pennsylvania Youth Survey (PAYS) in the fall 2015. 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 possession and use of cell phones in schools is a safety concern. Presently, each individual school seems to carve out their 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. Notably, cell phones and other electronic devices, which are also banned, are a large source of security breaches in school. Cell phones not only serve as a distraction and an obstacle to learning, they are a basis for potential violation of privacy rights, thefts and robberies. The District should look into creating a standardized cell phone policy.

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 (i.e., the incident must be ‘serious’ to be reported). This practice has resulted in incidents being underreported by schools in the District.
- Also, through a review of the Incident Reports, the Advocate was able to identify some discrepancies in the code description compared to the short narrative/notes describing the incident. The Advocate still sees the overuse of “disorderly conduct” as the defined code for offenses that present a narrative more accurately identified by another code, 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.

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. 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 consider reviewing 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.
- In 2014-15, the data generated through the implementation of the Philadelphia Police Department’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 subjected to the same level of scrutiny regarding their reporting of school-based incidents. As a result, 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 in 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

- Everyone involved in the school discipline process must be on the same page in order for the system to work. Educators and administrators alike should be informed and aware as to the function of the 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. While the Advocate did observe more inclusion of victims in disciplinary hearings, which is promising, there remains a continued need to promote a victim-centered approach in addressing a violent incident at every level of the disciplinary process.
- In addition, 2013-14 was a school year where the severe fiscal constraints of the previous year continued. Concerns about district-wide safety, violence and the lack of responsiveness of administrators were expressed to the Advocate from 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 redress or, if not immediate, that changes were discussed for future consideration. The District should develop, however, a mechanism for all teachers and staff to report safety concerns.
- School staff should be given an adequate level of professional development on how to address parental concerns and how to react to situations where an adult is creating a dangerous environment or is a direct threat to the safety and security of a school building. The following two examples below from separate elementary schools highlight this need:

Example #1: The SPO reports that he found the parents walking the hallway heading to Room XXX with an unidentified juvenile female. Upon stopping the defendants, the SPO informed them they had to go to the main office. They refused and proceeded to the Classroom at which time the parent/mother began to curse at students in the hallway. The SPO requested an "Assist Officer" while directing the students to go back into the classroom. The parent/father attempted to enter the classroom but the SPO blocked the doorway. One of his daughters, attempted to leave the room and the teacher instructed her to remain in the classroom. The parent/father then attempted to get at the teacher and the SPO interceded and the parent/father shoved the SPO and threatened him. Defendant X entered the hallway and advanced at the family and a fight ensued. The SPO then escorted defendant X and other unidentified students from the hallway to a secure location. When the SPO returned to the room, the two(2) parents and three(3) juvenile family members had left the building. All parents notified. PPD were notified and a search of the area resulted in negative results. Defendant X suffered injuries and was transported by FM#YY. The teacher suffered minor injuries to various areas of the body. The SPO suffered injuries to lower back. Defendants Y and Z were suspended. Letter of Exclusion to be issued to parents.

Example #2: It was reported that the below adults assaulted the complainant by kicking and punching the victim. The victim had to be transported to a hospital because she was urinating blood. School Police task force was on location. Philadelphia Police report was not made. This stemmed over an incident that occurred in school involving Ms. X's daughter who was suspended on this date.

School staff should be given the tools needed to address threatening or criminal behavior.

Accountability

- The District should promote strict and immediate accountability for personnel who breach their code of professionalism and 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 the Office of Safe Schools Advocate should be amended to recommend the date for the annual report be due by no later than January 1 of the year following the previous fiscal year. This is based on when data is required by statute to be submitted by the District to the Pennsylvania Department of Education and its availability and ability to be compared to and incorporated into the annual report.

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 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

Letter to Assistant Superintendents



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA COMMISSION ON CRIME AND DELINQUENCY

September 23, 2013

Re: Weekly School Safety Conference Calls

Dear Assistant Superintendent,

I'm writing today to tell you about a school and community safety program that the Office of Safe Schools Advocate participates in, and finds very useful: weekly conference calls among the police (School, PPD, and SEPTA), school representatives, and community leaders for the Northwest region of Philadelphia. These calls involve discussions of incidents at schools and in the neighborhood that had taken place over the previous week and weekend, as well as problems that potentially could occur in the future. The exchange of information gives everyone the opportunity to be more proactive and possibly stop problems even before they start. I would like to expand the calls city-wide, and invite you to join.

The goal is that with a few conversations and coordination, regional School Safety weekly phone conferencing can begin in earnest by October. To that end, I would like to pilot this endeavor beginning on September 30, 2013.

I am enclosing a copy of notes from a Northwest region conference call so that you can see what issues are typically discussed and what kind of information is exchanged during the calls.

Please encourage your principals or their designee to participate, and to dial in to the regional call for the police district in which his or her school sits. We will e-mail the principals the number and access code to use to dial in. The tentative days and times are:

Northeast: 2nd, 7th, 8th, 15th – Mondays @ 9:00
Northwest: 5th, 14th, 35th, 39th – Mondays @ 11:00
East: 24th, 25th, 26th – Mondays @ 9:45
Southwest: 12th, 16th, 18th, 19th – Tuesdays @ 8:45
Central: 6th, 9th, 22nd – Tuesdays @ 9:15
South: 1st, 3rd, 17th – Tuesdays @ 10:00

Sincerely,

Kelley B. Hodge, Esq.
Safe Schools Advocate

Office of Safe Schools Advocate
440 N. Broad St | Suite 1198 | Philadelphia PA 19130 | 215-656-5381 | Fax 215-656-5382 | www.phillyossa.org

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, Devise 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 polices 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~~

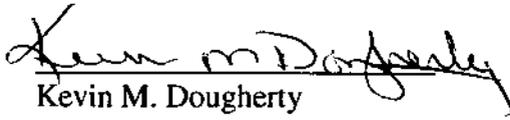
~~The Pennsylvania Department of Welfare (DPW) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation 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.

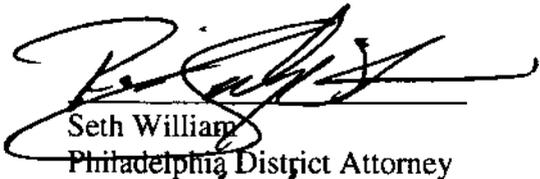
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IN WITNESS WHEREOF, the parties hereto, intending to cooperate with each other, for the best interest of Philadelphia students, have caused this Memorandum of Understanding to be duly executed as of the date last written.



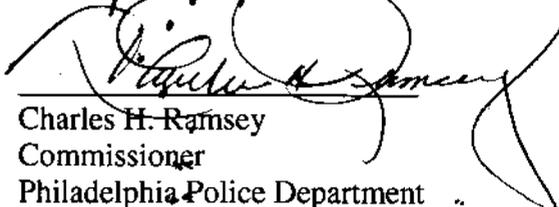
Kevin M. Dougherty
Administrative Judge
Court of Common Pleas
Family Court
Philadelphia County

Date: _____



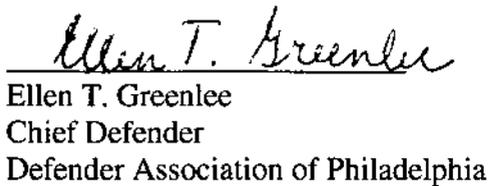
Seth William
Philadelphia District Attorney

Date: 6/25/14



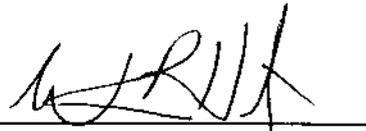
Charles H. Ramsey
Commissioner
Philadelphia Police Department

Date: _____



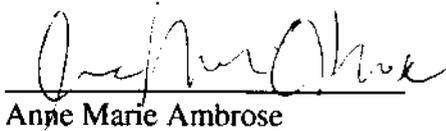
Ellen T. Greenlee
Chief Defender
Defender Association of Philadelphia

Date: 7/24/14



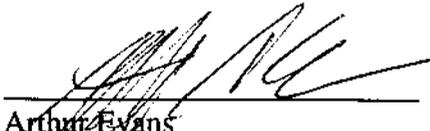
Dr. William R. Hite, Jr.
Superintendent
Philadelphia School District

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 Starnold-John Hampton~~
~~Director of Southeast Regional Office~~
~~Pennsylvania Department of Public Welfare~~

Date: _____

DPW WITHDRAWN
FROM AGREEMENT
7/16/2014
DICK 

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 "PDE" aka Pennsylvania Department of Education

⁶ "DDAP" aka Pennsylvania Department of Drug and Alcohol Programs

⁷ Link to PAYS 2013 survey results for Philadelphia. See: <http://www.pccd.pa.gov/Juvenile-Justice/Documents/PAYS/Philadelphia%20County%20Profile%20Report%202013.pdf>

⁸ Data received from the Office of Students and Responsibilities for the School District of Philadelphia.

⁹ Data provided by School Reform Commission

¹⁰ Article entitled "Challenge to Ease Tensions Between Merging Phila. Schools" published in the Philadelphia Inquirer on August 9, 2013

¹¹ School District of Philadelphia Resolution dated September 19, 2013

¹² See Appendix B

¹³ Persistently Dangerous Schools for 2013-14: Lincoln High School, Sayre High School, Shaw Middle School (closed in 2014)

¹⁴ 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

¹⁵ 24 P.S. §13-1310-A(b)(1)(i)

¹⁶ Appendix A: Possession of weapons prohibited (a.k.a. "Act 26")

¹⁷ Appendix A: Possession of weapons prohibited (a.k.a. "Act 26")

¹⁸ 2013-2014 SDP Code of Conduct