



MEMORANDUM OF UNDERSTANDING BETWEEN NEEDHAM PUBLIC SCHOOLS AND THE NEEDHAM POLICE DEPARTMENT

Needham, Massachusetts

I. Purpose

The Needham Public Schools and the Needham Police Department agree to coordinate their efforts to promote a safe, healthy, and nurturing learning environment within the school community.

The purpose of this Agreement is to formalize and clarify the partnership between the District and the Police Department to implement programs in order to promote school safety; help maintain a positive school climate for all students, families, and staff; enhance cultural understanding between students and law enforcement; promote school participation and completion by students; facilitate appropriate information-sharing; and inform the Parties' collaborative relationship to best serve the school community.

This memorandum is not intended to, does not, and may not be relied upon to create any rights, substantive or procedural, enforceable by any person in any civil or criminal matter.

II. Definitions, Designated Liaisons and Communication

School Resource Officer: a duly sworn Needham Police Officer with all necessary training, up-to-date certificates, including special school resource officer certification as required by subsection (b) of section 3 of chapter 6E or a special officer appointed by the Chief of Police charged with:

- (i) providing law enforcement;
- (ii) promoting school safety and security services to elementary and secondary public schools; and
- (iii) maintaining a positive school climate for all students, families and staff.
- (iv) For the purpose of this section, a school resource officer shall be exempt pursuant to subsection (j) of section 10 of chapter 269 (carrying a dangerous weapon/firearm on school grounds) while serving in the officer's official capacity.

SRO Certification: The Massachusetts Peace Officer Standards and Training Commission shall have the power to issue a *specialized certification* for an individual acting, or intending to act, as a School Resource Officer (SRO), as defined in section 37P of chapter 71 of the MGLs¹

In order to facilitate prompt and clear communications between the school and police personnel and to ensure compliance with student privacy and records regulations, the Parties agree to identify individuals on their respective staffs who will function as Designated Liaisons:

- The Needham Public Schools designated liaisons are: Superintendent, Assistant Superintendent of Support Services, Assistant Superintendent of Human Resources, Director of Guidance, School Principals, Assistant Principals.
- The Needham Police Departments designated liaisons are: Needham Police Chief, Police Lieutenants, School Resource Officer, Community Service Officer, School Attendance Officer, Detective Sergeant, and Shift Supervisor.
- The Needham Police Department is considered the Needham Public School's "Law Enforcement Unit" as defined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. -1232g and 34 CFR § 99).
- The Needham Police Department 's School Attendance Officer, who is a professional employed by the Needham School Committee as the Supervisor of Attendance and is guided by the requirements of MGL C 76, Sections 19 & 20, will be considered "authorized school personnel" as defined in 603 CMR 23.00 and eligible for access to the records of students to whom he/she provides services.
- The Needham Police Department's School Resource Officer(s) (SRO), who is a professional employed by the Police Department, will work collaboratively with the designated school liaisons and other school personnel as described in this MOU. SROs can only be assigned to schools upon the request of the school superintendent.
- The Superintendent of Schools and the Chief of Police agree to maintain regular and consistent communication between their offices, designated liaisons, and departments. The Superintendent and Police Chief will meet regularly to share appropriate information pertinent to the health, safety, and wellbeing of students and members of the community. From time to time and as necessary, the Superintendent and Police Chief will issue joint reports, press

¹ Provided, however, that a person shall not be appointed as a School Resource Officer, as defined in section 37P of said chapter 71, unless specifically certified as such by the POST Commission.

Notwithstanding any General or Special Law to the contrary, a person who is appointed as an SRO, as defined in section 37P of Chapter 71 of the Massachusetts General Laws, as of the effective date of this act may continue in such appointment without receiving a certification to serve as such pursuant to subsection (b) of section 3 of chapter 6E of the General Laws; provided, however, that they shall receive said certification by December 31, 2021.

releases, or statements to the community and public regarding the security, safety, and wellbeing of students and staff, and to share pertinent information that will benefit the schools and community.

III. Mission Statement and Guiding Principles

The mission of the Partnership is to support and foster the safe and healthy development of all students in the District through strategic and appropriate use of law enforcement resources and with the mutual understanding that school participation and completion is indispensable to achieving positive outcomes for youth and public safety.

The following principles shall guide the collaboration and work of the Needham Police and Needham Public Schools:

- 1) The promotion of a safe and supportive school environment that allows all students to learn and flourish regardless of race, religion, national origin, immigration status, gender, disability, sexual orientation, gender identity, and socioeconomic status;
- 2) The promotion of a strong partnership and lines of communication between school and police personnel which clearly delineate roles and responsibilities;
- 3) The establishment of a framework for principled conversation and decision-making by school and police personnel regarding student misbehavior and students in need of services;
- 4) Clearly defined roles for school personnel, SRO, and the Student Attendance Officer in responding to student misbehavior and truancy and that school administrators are responsible for the District's code of conduct and routine disciplinary violations;
- 5) Minimizing the number of students unnecessarily out of the classroom, arrested at school, or court-involved;
- 6) The encouragement of relationship-building by the SRO such that students and community members see the SRO as a facilitator of needed supports as well as a source of protection;
- 7) The provision of requirements and guidance for training including SRO training required by law and consistent with best practices, and training for school personnel as to when it is appropriate to request SRO intervention;
- 8) The involvement of the Police, the SRO and school personnel in various initiatives, including violence prevention and intervention, sexual assault, and emergency management planning;
- 9) The opportunity for presentations and programming to the school focusing on criminal justice issues, community and relationship building, and prevention, health, and safety topics.
- 10) The ongoing communication of appropriate information, subject to applicable statutes and regulations governing confidentiality, that may affect the safety or well being of students, faculty, or administrative personnel.

IV. Roles and Responsibilities of School and Police Liaisons, including the SRO

The Parties agree that school officials and the SRO play important and distinct roles in responding to student misbehavior to ensure school safety and promote a positive and supportive learning environment for all students.

The SRO will not serve as a school disciplinarian, as an enforcer of school regulations, or in place of school-based mental health providers, and the SRO will not use police powers to address traditional school discipline issues, including non-violent disruptive behavior.

The principal or designee shall be responsible for student code of conduct violations and routine disciplinary violations. The SRO shall be responsible for investigating and responding to criminal misconduct. The Parties acknowledge that many acts of student misbehavior that may contain all the necessary elements of a criminal offense are best handled through the school's disciplinary process. The SRO shall read and understand the student code of conduct for both the District and the school.

The principal or designee and the SRO shall use their reasoned professional judgment and discretion to determine whether SRO involvement is appropriate for addressing student misbehavior. In such instances, the guiding principle is whether misbehavior rises to the level of criminal conduct that poses (1) real and substantial harm or threat of harm to the physical or psychological well-being of other students, school personnel, or members of the community or (2) real and substantial harm or threat of harm to the property of the school.

In instances of student misbehavior that do not require a law enforcement response, the principal or designee shall determine the appropriate disciplinary response. The principal or designee should prioritize school or community-based accountability programs and services, such as peer mediation, restorative justice, and mental health resources, whenever appropriate.

For student misbehavior that requires immediate intervention to maintain safety (whether or not the misbehavior involves criminal conduct), the SRO may act to deescalate the immediate situation and to protect the physical safety of members of the school community. To this end, school personnel may request the presence of the SRO when they have a reasonable fear for their safety or the safety of students or other personnel. To the extent it is practical, school personnel may, at the request of the police and SRO, assist with interpretation for a student for whom English is not the primary language.

When the SRO or other Police Department employees have opened a criminal investigation, school personnel shall not interfere with such investigation or act as agents of law enforcement. To protect their roles as educators, school personnel shall only assist in a criminal investigation as witnesses or to otherwise share information consistent with Section V, except in cases of emergency. Nothing in this paragraph shall preclude the principal or designee from undertaking parallel disciplinary, investigatory or administrative measure that may be necessary to provide an appropriate school environment for all students.

A student shall only be arrested on school property or at a school-related event as a last resort or when a warrant requires such an arrest. The principal or designee shall be consulted prior to an arrest whenever practicable, and the student's parent or guardian shall be notified as soon as practicable after an arrest. In the event of an investigation by the SRO that leads to custodial questioning of a juvenile student, the SRO shall notify the student's parent or guardian in advance and offer them the opportunity to be present during the interview except in emergency circumstances.

In accordance with state law, the SRO shall not take enforcement action against students for Disturbing a School Assembly (G.L. c. 272, § 40) or for Disorderly Conduct or Disturbing the Peace (G.L. c. 272, § 53) within school buildings, on school grounds, or in the course of school-related events.

The Student Attendance Officer will supervise all student attendance activities and work cooperatively with school administrators, families, and students to ensure that all students within the school district attend school on a regular basis and in accordance with laws relative to school attendance.

It shall be the responsibility of the District to make teachers and other school staff aware of the distinct roles of school administration and police, including the SRO in addressing student misbehavior.

V. Sharing and Reporting Information between Designated Liaisons, including SRO

The Schools and Police acknowledge the benefit of appropriate information sharing for improving the health and safety of students but also the importance of limits on the sharing of certain types of student information by school personnel. The Schools and Police also acknowledge that there is a distinction between student information shared for law enforcement purposes and student information shared to support students and connect them with necessary educational, mental health, community-based, and related services.

A. Compliance with FERPA and Other Confidentiality Requirements

At all times, school officials must comply with FERPA. This federal statute permits disclosures of personally identifiable information about students contained in educational records ("Student PII"), without consent, only under specific circumstances.

When the District "has outsourced institutional services or functions" to the SRO consistent with 34 C.F.R. § 99.31(a)(1)(i)(B) of FERPA, the SRO qualifies as a "school official" who can access, without consent, Student PII contained in education records about which the SRO has a "legitimate educational interest." As provided by 34 C.F.R. §§ 99.33 of FERPA, this release is contingent on the SRO's agreement that the SRO will not disclose the information to any other party without the consent of the eligible student or parent.

Consistent with 34 C.F.R. §§ 99.31(10) and 99.36 of FERPA, the SRO (or other Police Department employee identified in Section V.A.) may gain access, without consent, to Student PII contained in education records "in connection with an

emergency if knowledge of the [Student PII] is necessary to protect the health or safety of the student or other individuals.”

These are the *only* circumstances in which an SRO may gain access, without consent, to education records containing student PII (such as IEPs, disciplinary documentation created by a school, or work samples).

FERPA does not apply to communications or conversations about what school staff have observed or to information derived from sources other than education records.

In addition to FERPA, the Parties agree to comply with all other state and federal laws and regulations regarding confidentiality, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) where applicable and state student record regulations at 603 C.M.R. 23.00. The Parties agree to collect only that student information necessary and relevant to fulfilling their respective roles, to share such information with each other only where required or allowed under this Agreement, and not to share such information beyond the sharing contemplated in this Agreement unless required to be shared by state or federal law. The Parties shall not collect or share information on a student’s immigration status except as required by law.

B. Information Sharing by School Personnel

1. For Law Enforcement Purposes

Where the principal or designee learns of misconduct by a student for which a law enforcement response may be appropriate (as described in Section IV), he or she should inform the SRO. If a teacher has information related to such misconduct, he or she may communicate this information directly to the SRO but only after communicating such information to the principal or designee. The Parties agree that the sharing of such information shall not and should not necessarily require a law enforcement response on the part of the SRO but shall and should instead prompt a careful consideration of whether the misconduct is best addressed by law enforcement action, by a school disciplinary response, or by some combination of the two.

Notwithstanding the foregoing, if student information is obtained solely during a communication with school staff deemed privileged or confidential due to the staff member’s professional licensure, such communication shall only be disclosed with proper consent or if the communication is subject to the limits and exceptions to confidentiality and is required to be disclosed (e.g., mandatory reporting, immediate threats of harm to self or others). Additionally, if such student information is gathered as part of a “Verbal Screening Tool for Substance Abuse Disorders,” such information shall only be disclosed pursuant to the requirements of G.L. c. 71, § 97.

The Parties acknowledge that there may be circumstances in which parents consent to the disclosure of student information for law enforcement purposes (e.g., Needham Youth Diversion Program agreement) and that the

sharing of information under such circumstances does not violate this Agreement.

The Individuals with Disabilities Education Act (IDEA), at 20 U.S.C. 1415(k)(6)(B), requires school officials to deliver to the prosecutor or other “appropriate authorities” a copy of the child’s IEP and discipline record when reporting the child’s conduct to law enforcement. School officials will seek the consent of the parent or eligible student prior to such delivery.

The Parties also acknowledge that, from time to time, an emergency situation may arise that poses a real, substantial, and immediate threat to human safety or to property with the risk of substantial damage. School personnel having knowledge of any such emergency situation should immediately notify or cause to be notified both the Police Department (or the SRO if appropriate to facilitate a response) and the principal or designee. This requirement is in addition to any procedures outlined in the school’s student handbook, administrative manual, and/or School Committee policy manual.

Nothing in this section or this Agreement shall prevent the principal or designee from reporting possible criminal conduct by a person who is not a student.

2. For Non-Law Enforcement Purposes

Based on their integration as part of the school community, SRO may periodically require access to student information for purposes that fall outside of the SRO’s law enforcement role outlined in Section IV.

Student PII received by the School Attendance Officer or SRO (or other Police Department employee) that is not related to criminal conduct risking or causing substantial harm shall not be used to take law enforcement action against a student but may be used to connect a student or family with services or other supports. Prior to such a disclosure, whenever possible, the principal or designee shall notify the parent, the student, or both, when such information will be shared with the SRO.

C. Information Sharing by the Designated Police Liaison or SRO

Subject to applicable statutes and regulations governing confidentiality. The Designated Police Liaison or SRO shall inform the principal or designee of any arrest of a student, the issuance of a criminal or delinquency complaint application against a student, or a student’s voluntary participation in any diversion or restorative justice program if:

- The activity involves criminal conduct that poses a (present or future) threat of harm to the physical or psychological well-being of the student, other students or school personnel, or to school property;
- The nature of the complaint is such that the student’s continued presence in school might reasonably be deemed to have a substantial detrimental effect on the general welfare of the school.

- The making of such a report would facilitate supportive intervention by school personnel on behalf of the student (e.g., because of the Police Department's involvement with a student's family, the student may need or benefit from supportive services in school); or
- The activity involves actual or possible truancy.

The Designated Police Liaison or SRO shall provide such information whether the activity takes place in or out of school, consistent with the requirements of G.L. c. 12, § 32 (Community Based Justice information-sharing programs) and G.L. c. 71, § 37H1/2 (setting forth potential disciplinary consequences for violations of criminal law).

When the SRO observes or learns of student misconduct in school for which a law enforcement response is appropriate (as described in Section IV), the SRO shall convey to the principal or designee as soon as reasonably possible the fact of that misconduct and the nature of the intended law enforcement response, and when the SRO observes or learns of student misconduct that does not merit a law enforcement response, but that appears to violate school rules, the SRO shall report the misconduct whenever such reporting would be required for school personnel

Once a Designated Police Liaison or SRO has been made aware of the arrest of any student, or that a complaint application has been filed against any student, they are to share information concerning the matter with the Designated School Liaison subject to applicable statutes and regulations governing confidentiality. The Needham Police will also share any information that the court imposes as a condition of release, probation, etc.

The Designated Police Liaison or SRO may also share information about any non-criminal activity involving a student if the officer believes that the activity:

- 1) Poses a serious and imminent threat to the student's safety
- 2) Poses a threat to the safety of other students, or
- 3) By making such a report the officer would facilitate supportive intervention by school personnel on behalf of the student.

Subject to applicable statutes and regulations governing confidentiality and student records (e.g., FERPA) surveillance video shall be available to the Needham Police Department for any criminal investigation involving the safety and security of Needham Public Schools' facilities, grounds, students, faculty, or staff.

D. Limitation on Sharing of Student Information

- School department personnel and school resource officers shall not disclose to a law enforcement officer or agency, including local, municipal, regional, county, state and federal law enforcement, through an official report or unofficial channels, including, but not limited to text, phone, email, database and in-person communication, or submit to the department of state police's Commonwealth Fusion Center, the Boston Regional Intelligence Center or any other database or system designed to track gang affiliation or involvement,
- Any information relating to a student or a student's family member from its databases and other recordkeeping systems including:

- a. immigration status;
 - b. citizenship;
 - c. neighborhood of residence
 - d. religion;
 - e. national origin;
 - f. ethnicity;
 - g. suspected, alleged, or confirmed gang affiliation,
- Unless it is germane to a specific unlawful incident or to a specific prospect of unlawful activity the school is otherwise required to report.

Exceptions:

Nothing in this paragraph shall prohibit the sharing of information:

- i. For the purposes of completing a report pursuant to section 51A of Chapter 119;
- ii. Upon the specific, informed written consent of the eligible student, parent or guardian;
- iii. To comply with a court order or lawfully issued subpoena;
- iv. In connection with a health or safety emergency pursuant to the provisions of 603 1734 C.M.R. 23.07(4)(e)*; or
- v. For the purposes of filing a weapon report with the local chief of police pursuant to this section.

***Note:** “A school may disclose information regarding a student to appropriate parties in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals. This includes, but is not limited to, disclosures to the local police department and the Department of Social Services under the provisions of M.G.L. c. 71, section 37L and M.G.L. c. 119, section 51A.”

VI. Processes for Selecting, Supervising, and Training SRO & Integrating SRO into the School Community

1. **Selecting the SRO** In accordance with state law, the Police Chief shall assign an officer whom the Chief believes would foster an optimal learning environment and educational community and shall give preference to officers who demonstrate the requisite personality and character to work in a school environment with children and educators and who have received specialized training in child and adolescent cognitive development, de-escalation techniques, and alternatives to arrest and diversion strategies.
2. **Supervising the SRO** The Chief of Police, or designee, will supervise the SRO. As appropriate, the Superintendent will provide feedback about the role of the SRO within the school community, and the school administration will review over the course of the school year relevant operational needs.
3. **Training the SRO** The Police Chief is responsible for the training and supervision of the SRO. The Parties acknowledge that the SRO may

benefit from participating in certain professional development and trainings offered to school personnel. Additionally, in accordance with state law, the SRO shall receive ongoing professional development in: child and adolescent development, conflict resolution, and diversion strategies. Additional areas for continuing professional development may include, but are not limited to:

- Restorative practices
- Implicit bias and disproportionality in school-based arrests based on race and disability
- Cultural and racial competency in religious practices, clothing preferences, identity, language awareness, and other areas
- Mental health protocols and trauma-informed care
- De-escalation skills and positive behavior interventions and supports
- Training in proper policies, procedures, and techniques for the use of restraint
- Teen dating violence and healthy teen relationships
- Understanding and protecting civil rights in schools
- Special education law
- Student privacy protections and laws governing the release of student information
- School-specific approaches to topics like bullying prevention, cyber safety, emergency management and crisis response, threat assessment, and social-emotional learning

Where practicable, the District shall also encourage school administrators to undergo training alongside the SRO to enhance their understanding of the SRO's role and the issues encountered by the SRO.

4. **Integrating the SRO into the School Community** The Parties acknowledge that proper integration of the SRO can help build trust, relationships, and strong communication among the SRO, students, and school personnel.

The District shall be responsible for ensuring that the SRO is formally introduced to the school community, including students, families, and staff. The introduction shall include information about the SRO's background and experience, the SRO's role and responsibilities, what situations are appropriate for SRO involvement, and how the SRO and the school community can work together, including how and when the SRO is available for meetings and how and when the school community can submit questions, comments, and constructive feedback about the SRO's work. The introduction for families shall include information on procedures for communicating with the SRO in languages other than English.

The SRO shall regularly be invited to and attend staff meetings, assemblies, and other school convenings. The SRO shall also be invited to participate in educational and instructional activities, such as instruction on topics relevant to criminal justice, student safety, health, and wellbeing, and public safety issues.

VII. Data Collection and Reporting

In accordance with state law, the Police Chief, SRO, and school administrators will work together to ensure the proper collection and reporting of data on school-based arrests, citations, and court referrals of students, consistent with regulations promulgated by the Department of Elementary and Secondary Education.

VIII. Implementation and Duration

The Superintendent and Police Chief agree to implement this agreement, provide training to Designated School Liaisons and other appropriate staff as necessary, and implement necessary procedures to ensure a successful program.

A. The Needham Public Schools and the Needham Police Department agree to provide agency-wide training to their respective staffs to inform them of their roles and responsibilities under this agreement. On an on-going basis, the same training will be provided to new staff members.

B. The Police Chief will develop Standard Operating Procedures that will be consistent with the MOU and include appropriate measures, in accordance with the law, that allow for proper implementation of the SRO Program.

C. Annually, the Police Chief and Superintendent will review the success and effectiveness of the MOU, including the School Attendance Officer and School Resource Officer Programs, and, as necessary, modify the terms of this MOU.

D. Effective date and duration of this agreement: The provisions of this Memorandum of Understanding, including the accompanying Standard Operating Procedures (Attachment 1), shall be effective as of the date indicated below and will remain in full force and effect until amended or rescinded by the Parties.

For the Needham Public Schools:



Daniel E. Gutekanst
Superintendent of Schools

Date 11/10/21

For the Needham Police Department:



John Schlittler
Chief of Police

Date 11-12-21