

Arlington School Board, Operating as Arlington Public Schools (APS)

And

Arlington County Police Department

Memorandum of Understanding

March 10, 2022

MEMORANDUM OF UNDERSTANDING

between

ARLINGTON SCHOOL BOARD (Operating as Arlington Public Schools)

and

ARLINGTON COUNTY POLICE DEPARTMENT

March 10, 2022

PREAMBLE

The Arlington School Board, operating as Arlington Public Schools (APS), and Charles Penn in his official capacity as the Chief of the Arlington County Police Department (ACPD) hereby enter into the School-Law Enforcement Partnership (SLEP) to continue fostering relations of mutual respect and understanding in order to build positive and safe school environments.

This MOU is intended only to outline expectations between APS and ACPD. It is not intended to create contractual or equitable obligations on the part of APS or ACPD toward particular students, parents, APS or ACPD employees, or any other third parties.

The parties agree that most violations of the Student Code of Conduct Policy can be best addressed through classroom de-escalation and in-school non-judicial strategies. The parties acknowledge that research indicates students are generally less mature and less responsible than adults; they often lack a certain level of maturity, experience, perspective, and judgment to recognize and avoid choices that could be detrimental to them; and they are more susceptible to outside pressures than adults.

APS believes that all responses to school code of conduct violations should be equitably administered, procedurally just, and restorative-based, with appropriate consideration given the nature and severity of the incident, including mitigating factors. Students should receive redirection and support from in-school services, counseling, mental health services, and community resources prior to the consideration of serious Student Code of Conduct sanctions to include suspension or expulsion.

With the APS goal of embracing a restorative approach and implementation of those principles, any reporting to law enforcement of school code of conduct violations is precluded and referrals to court services, other than those intended for purposes of deflection or diversion programs, should only be utilized when there is an articulable and significant threat to the health or safety of students, employees, or visitors, or where reporting is mandated per the Code of Virginia [§ 22.1-279.3:1](#), and other limited circumstances as discussed herein.

PURPOSE

SLEP is intended to facilitate effective, timely communication and coordination of efforts by both APS and ACPD. The purpose of this Memorandum of Understanding (MOU) is to establish a mutually beneficial framework that both the school division and law enforcement can work within to achieve shared goals of promoting supportive, safe, and secure schools for students, faculty, and staff.

OVERARCHING GOALS

The primary goals of SLEP are to promote positive and supportive school climates that incorporate appropriate social-emotional support for students to create and maintain safe and secure school environments.

To promote positive, restorative, and supportive school climates, SLEP will collaborate with other County services, advocates, and service providers to increase access to resources (for example, counselors, drug and alcohol specialists, and family support services), provide law-related education, expand school safety and crime prevention education efforts, increase mechanisms to equip the schools to safely reduce conflict, and support effective non-punitive interventions for students.

To create and maintain safe and secure school environments, SLEP will encourage and support a collaborative relationship to continue ways to implement positive interactions with students and ACPD, which could include, but is not limited to substance abuse prevention, educational programs on understanding your rights, reducing and preventing crime, violence, victimization, and minimizing fear in the lives of students in and around schools, and to decrease, through education and enhanced in-school support services, students' potential involvement with the criminal justice system.

ROLES AND RESPONSIBILITIES OF PARTNER ORGANIZATIONS

ACPD Roles and Responsibilities

To facilitate communication and coordination, ACPD will designate a direct point of contact between ACPD and APS. This point of contact will be available to address any operational and administrative issues regarding the partnership.

The point of contact or designee may provide guidance upon request to staff on school safety and security issues, including assessments and emergency planning, as needed. The point of contact and any designee will be provided materials on and be familiar with school policies, regulations, and laws regarding student and school safety protocols. The point of contact or designee should work with APS to establish effective communication mechanisms and relationships with APS's point of contact.

ACPD will continue to facilitate the effective delivery of law enforcement services and collaborate with APS on planning and preparing for matters related to the safety of schools and students, staff, and administrators. Upon request, ACPD will work with schools to provide opportunities for positive interactions with students that may include, but are not limited to: educational programming, substance use prevention, after-school activities, sporting events, and other non-enforcement interactions, as deemed appropriate by the requesting school's administrator.

In developing and implementing law enforcement policies and practices that may affect APS, ACPD will consult with and take into consideration the views of APS.

ACPD may be requested to schedule supplemental external support for APS during the school day. These needs may vary by school. ACPD can provide staffing for extracurricular events as requested by APS using the special event and activity guidelines, as staffing permits.

ACPD will serve on the APS Safety Audit Committee supporting the development of APS emergency operations plans and exercises and will offer assistance to individual schools when resources are available and coordinated with the Department of Safety, Risk and Emergency Management. In an emergency response situation, ACPD shall be granted access to APS facilities for the purpose of keeping students, staff, and administrators safe from an ongoing threat. When practical, ACPD will make every attempt to keep APS administration apprised of any developing scenarios that may impact schools if not directly originating from a school.

Absent a law enforcement or public safety need or request from APS, ACPD will generally not be present in the school buildings during official school hours when school is in session.

APS Roles and Responsibilities

APS will designate a primary division-level point of contact to implement the partnership and collaborate with and maintain ongoing effective communications with ACPD officials.

It is the responsibility of school administrators to facilitate effective communication between ACPD and school staff to support the goals of the partnership. APS will cooperate with ACPD-initiated investigations and actions, with respect to criminal investigations where the criminal activity, as defined by the Code of Virginia [§ 22.1-279.3:1](#), took place on school property and is deemed reportable as required by the Code of Virginia, without hindering or interfering with their law enforcement duties.

Arlington Public Schools will handle all Student Code of Conduct violations within the bounds of this policy without involving the Arlington County Police Department unless a Student Code of Conduct violation has been committed that mandates contact with law enforcement as outlined in the Code of Virginia 22.1-279.3:1 and School Board policy. Police notification and involvement will be treated as a serious matter and every effort will be made to contact the parent/guardian. APS policies, administrative guidance, training, and ongoing oversight will clearly communicate that school administrators and teachers are responsible for properly and equitably handling student behaviors and student code of conduct violations.

APS administrative personnel will assist in safeguarding the rights and well-being of students including, but not limited to, advising students of their rights, providing language services, or other appropriate accommodations ([APS Know Your Rights Information](#)).

As a general practice, outside of a mutually agreed upon non-enforcement ACPD activity, unless there is an articulable and significant threat to the health or safety of a student or other individuals, requests from school staff for ACPD or other law enforcement assistance are to be channeled through a school administrator (principal, assistant principal, or their designee).

Individual APS school administrators may contact an ACPD designee to assist a school in non-enforcement manners such as classroom presentations, event participation, and in other student-centered ways, approved by APS. If the activity is not pre-approved by APS, APS personnel should submit a request to the Office of School Support for approval to ensure the activity aligns with the overall goals of the MOU.

The overarching goals of APS to create a fair and equitable, student-centric, restorative school environment will be the guiding principles for handling internal school matters and student code of conduct violations. APS is responsible for communicating these goals and the role of ACPD to all school administration, staff, and students.

APS will notify ACPD of any extracurricular school activities requiring ACPD personnel. APS will request with as much advance notice as possible, but not less than ten (10) business days, when feasible, if there is an event that will require ACPD presence. APS shall coordinate with ACPD and provide an annual calendar of events most likely needing assistance in the current school year, based on prior years' utilization. Staffing requests and levels shall be determined in collaboration with ACPD based upon several variables to include ACPD's availability to staff the event, the size of the event, and the amount of projected security necessary to ensure overall safety of participants. All requests for police security will be paid at ACPD's predetermined overtime rate.

APS requests for ACPD or other law enforcement assistance will only be made through the APS liaison, unless there is an articulable and significant threat to the health or safety of a student or other individuals.

Training for APS staff and administrators should be aligned with SLEP to include but not be limited to restorative practices, student-centric approaches to de-escalation, cultural competency, equity impact analysis, trauma informed approaches, alternatives to school Student Code of Conduct sanctions, and relevant Department of Criminal Justice Services (DCJS) curriculum as deemed appropriate for external collaboration with ACPD.

Role of the School Administrator

The principal is recognized as the instructional leader and manager of the school, as defined by the Virginia Administrative Code [8VAC20-131-210](#).

OPERATIONAL PROCEDURES

Differentiating Student Behavior Infractions from Criminal Offenses

School administrators and teachers are responsible for equitably addressing all student code of conduct violations. Per APS procedures, ACPD will not be summoned to assist with the enforcement of school rules, behavioral infractions, and alleged criminal activity that are not mandated by the Code of Virginia [§ 22.1-279.3:1](#).

ACPD is committed to impartial law enforcement and the intelligent use of discretion in the application of the law to the problems of crime and disorder. ACPD will respect the Constitutional rights and

personal dignity of all people.

APS Requests for ACPD Assistance

- In emergency situations in which student and staff safety are in imminent danger which require ACPD assistance, any APS personnel that are safely able to do so should dial 911.
- In non-emergency situations requiring ACPD assistance, administrative personnel should dial 703-558-2222.
- All APS questions that do not require a police response should be directed to the designated ACPD point of contact or a designee by APS administrative personnel.

Information Sharing

The release of student educational information, including, but not limited to disciplinary records, school and bus camera footage, attendance, etc., is governed by the Family Educational Rights and Privacy Act (e.g., FERPA), 20 USC § 1232g. "School Officials" as defined by FERPA may access and disclose student educational information only as authorized under FERPA.

ACPD is not considered a school law enforcement unit as defined by FERPA and therefore will only have access to directory level information. Annual notice of directory information is provided to families by APS and may include name of student; address; telephone listing; student number under limited circumstances; grade level; dates of attendance; participation in officially recognized activities and sports; height and weight if member of athletic team; awards and honors received; and other similar information, with the exception of individuals who have opted-out of disclosure of directory-level information. 34 CFR § 99.3.

During an articulable and significant threat to the health or safety of a student or other individuals, FERPA allows school administrators to disclose student educational information that is necessary to address the health and safety emergency. This exception is limited to the period of the emergency and does not allow for a blanket release of information and disclosures under this exception must be related to an actual, impending, or imminent emergency such as a natural disaster, terrorist attack, campus shooting, or the outbreak of an epidemic disease. 34 CFR §§ 99.31(a)(10) and 99.36.

When summoned for assistance, and to the extent the law allows, APS should notify responding members of ACPD of any special needs of an involved student, provide guidance on successful strategies to ensure the safety of the student with special needs, and to assist responding ACPD members in recognizing and accommodating behaviors that may be manifestations of the student's disability.

ACPD Disclosure of Law Enforcement Records

ACPD may disclose law enforcement records in limited circumstances (e.g., active threat assessment cases) to an Arlington Public Schools administrator for the purpose of protecting a student, other students, and school personnel pursuant to Code of Virginia §16.1-301(B). ACPD shall report arrests pursuant to Code of Virginia §§19.2-83.1 and 22.1-279.3:1 as soon as practicable to the Superintendent and to the school principal or designee. It is noted that the statutorily required notification of

disposition of a case within 15 days pursuant to Code of Virginia §16.1-301(B) may at times be beyond the control of ACPD. Every effort will be made by ACPD to comply with this requirement. Because law enforcement records are not student records, they are not subject to the disclosure requirements of FERPA.

Camera Access

ACPD shall request access to APS cameras through Department of Safety, Security, Risk and Emergency Management, to assist with a criminal investigation that is required, by the Code of Virginia [§ 22.1-279.3:1](#), to be reported to ACPD. Other access to camera footage must be formally requested by ACPD and only released under legal process (e.g., subpoena or search warrant), pursuant to school privacy and confidentiality laws.

Body Worn Cameras

ACPD Officers assigned body worn cameras will use them in accordance with ACPD policy. ([ACPD Body Worn Camera Policy](#))

ACPD Investigations and Questioning of Students

- a. ACPD will respect the Constitutional rights and personal dignity of all people.
- b. The investigation and questioning of students during school hours or at school events should be limited to situations where the investigation is related to suspected criminal activity related to the operation of or occurring at the school. The investigation and questioning of students for offenses not related to the operation of or occurring at the school should take place at school only when delay might result in danger to any person, destruction of evidence, or flight from the jurisdiction by the person suspected of a crime.
- c. ACPD officers have the authority to question students who may have information about criminal activity. As sworn law enforcement officers, ACPD officers have authority to stop, question, interview, and take law enforcement action.
- d. ACPD may request, that APS delay an investigation that it is conducting that is connected to a parallel criminal investigation by ACPD.
- e. The interviewing of students, whether as suspects, victims, or witnesses, should be conducted privately in an office setting. ACPD shall take steps to ensure minimal intrusion into the educational experience of students being questioned in the school setting.
- f. ACPD is responsible for leading the investigation and questioning of students related to suspected violations of criminal law. ACPD shall not be included in the investigation and questioning of students about student code of conduct violations that do not involve any criminal activity or risk of harm to self or others. School administrators are responsible for the investigation and questioning of students about violations of the student code of conduct.
- g. ACPD shall always consider, and whenever possible, adjust their approach to questioning and investigating with regard to each student's life experience, age, disability, intellect, preferred language, and emotional status.

Searches

All searches shall be conducted in accordance with federal and state laws, and applicable APS and ACPD policies and guidelines, including the principles embodied in this MOU.

School Administrator Searches. School administrators may conduct searches of a student's property, person, and school property assigned to a student when reasonable suspicion exists that the search will reveal evidence that the student has violated or is violating either the law or the student code of conduct. If requested by an administrator, a member of ACPD may be consulted for safety and security purposes. The standard for search by a school official is reasonable suspicion.

If during an administrative search where an ACPD representative is not present and an administrator locates contraband related to law enforcement investigations, ACPD shall be notified immediately and take possession of the item(s) and take appropriate action. If there is ever a question as to the status of contraband, ACPD should be notified in accordance with Code of Virginia [§ 22.1-279.3:1](#) .

ACPD Searches. Any search initiated by law enforcement must be in compliance with all federal, state, and local laws in addition to ACPD policy. All searches should occur outside the presence of students and school staff, with the exception of school administrators, unless there is a clear and immediate threat to physical safety.

ACPD personnel shall not request or conduct administrative (school-related) searches. At no time shall ACPD personnel have the administrator act as their agent.

Arrests

Whenever practical, arrests of a student or staff member should be accomplished outside of school hours and/or off school grounds to not disrupt the educational process or school setting. Arrests that must occur during school hours or on school grounds should be coordinated through the school administrator to minimize trauma to students and staff and any potential disruption.

When circumstances do not allow for prior coordination through the school administrator, arrests will be reported to the school administrator as soon as possible. In addition to any required notification of parents and legal guardians by ACPD personnel taking a student into custody, school administrators or their designees are also responsible to notify to parents/legal guardians upon a school-based arrest of their child.

Physical Intervention by ACPD Officers

- ACPD Officers should not be involved in the physical restraint of a student unless there is a clear and imminent threat to safety ([ACPD Use of Force Policy](#)).
- Physical intervention by ACPD Officers is undertaken in accordance with policies and operational procedures of ACPD and state and federal law regarding physical intervention and use of force by a law enforcement officer. If an ACPD Officer is involved in the use of restraint or physical intervention, the action should be reported to the school administrator and the ACPD Officer's supervisor and the rationale for the action should be fully documented.

Additionally, if the ACPD officer physically intervenes with a student, an APS administrator and ACPD Officer or ACPD supervisor should coordinate to ensure that a reasonable effort is made to inform the student's parents or legal guardians on the day of the incident.

OTHER PROVISIONS

The Parties retain all rights, privileges, immunities, and defenses provided under law and there shall be no joint or several liabilities for any action taken by either of the Parties pursuant to this MOU. Nothing in this MOU shall be construed to create an agency relationship between the Parties. This agreement is entered into with the intention that the law of the Commonwealth of Virginia shall govern its construction and enforcement.

Notwithstanding any other provision in this agreement to the contrary, nothing in this agreement nor any action taken by Any Party to this agreement shall constitute or be construed as a waiver of the sovereign or governmental immunity of Either Party or its officers or employees. Further, notwithstanding any other provision of this agreement to the contrary, No Party shall have an obligation to explicitly or implicitly indemnify or hold harmless the Other Party or any third party from any liability whatsoever.

The parties mutually agree that no provision of this agreement shall create in the public, any student, parent of a student, or in any person or entity other than those signing this agreement as parties hereto, rights as a third-party beneficiary hereunder, or authorize any person or entity, not a party hereto, to maintain any action for personal injury, property damage, or breach of contract pursuant to the terms of this agreement or otherwise.

EVALUATION OF THE SCHOOL AND LAW ENFORCEMENT PARTNERSHIP

Measurable objectives of the SLEP should be developed jointly by the Parties by conducting a needs assessment that will consider various data points such as school Student Code of Conduct violations that results in law enforcement referral, demographics of population(s) most impacted, criminal activity in the school, crime statistics in the community, services provided to students, and violence data. APS will regularly engage with staff, administrators, students, and family members to survey their needs to ensure the best mechanisms and tools are being deployed to serve students and families based on a holistic view of their needs.

Progress towards achieving goals and objectives shall be jointly reviewed and adjusted as needed at least annually by APS and ACPD designees and shared with the public in various manners to ensure transparency.

REVIEW OF MOU

This MOU should be reviewed annually, and amended as necessary, to ensure applicability of this agreement to the mutually developed purpose, goals, and objectives necessary to enhance the partnership of the Parties. Quarterly meetings should be conducted throughout the year between APS and ACPD to support successful implementation of the partnership.

This MOU remains in force until such time as either party, with a 45-day notice, withdraws from the agreement by delivering a written notification of such rescission to the other party.

The entirety of this agreement is contained in the language above the signature line.



Dr. Francisco Duran
Superintendent, APS
March 10, 2022



Charles Penn
Chief of Police, ACPD
March 10, 2022

Glossary of Terms

Understanding that APS, ACPD, and members of the public may ascribe different meanings to terms used within this Memorandum of Understanding based on historical perspectives, prior agreements, and intra-disciplinary application, the following definitions shall apply within the context of this document.

Contraband - An item that has been banned and which is unlawful to manufacture, distribute or even to possess. (Black's Law Dictionary, 2nd Ed.)

Custodial Interview/Interrogation - Questioning initiated by law enforcement officers after a person has been taken *into custody* or otherwise deprived of his freedom of action in any significant way. (Miranda v. Arizona, 384 U.S. 436, 86 S. Ct. 1602, 16 L. Ed. 2d 694) (See Code of Virginia § 16.1-246 – “When and how child may be taken into immediate custody”)

De-escalation – The range of verbal and non-verbal skills used to slow down the sequence of events, enhance situational awareness, conduct proper threat assessments, and allow for better decision-making during potential force encounters in an attempt to resolve situations without the use of force or with a reduction in the force necessary. (U.S. Department of Justice, 2019. Law Enforcement Best Practices: Lessons from the Field. Washington, DC: Office of Community Oriented Policing Services) (ACPD Directive 538.04)

Student Code of Conduct – Arlington Public Schools’ processes designed to hold the student accountable for noncriminal offenses as necessary, reasonable, and equitable, in accord with State law, School Board policies, and in keeping with the Student Responsibilities and Rights section of the Arlington Public Schools Handbook.

Arlington Public Schools system has authority to issue sanctions to students for Student Code of Conduct violations:

1. While on school premises
2. While in proximity to school premises
3. When coming to or going from school
4. While on school-owned and operated school buses or on chartered buses
5. While engaged in approved and supervised school activities on or off school premises
6. When the good order, safety or welfare of the school or its students is affected as a result of out of school actions. ([Arlington Public Schools Policy J-7.4 Student Code of Conduct](#))

Non-Enforcement – Interactions outside of law enforcement or investigative functions of policing designed to increase visibility, familiarity, collaboration, and trust necessary to enhance the quality of life for members of the community. ([U.S. Department of Justice Community Relations Services Toolkit for Policing](#))

Non-Judicial – Not related to a judgment in court or by a judge. (*Collins English Dictionary – Complete and Unabridged, 12th Edition 2014*)

Reasonable suspicion - An objectively justifiable suspicion that is based on specific facts or circumstances that justifies stopping and sometimes searching (as by frisking) a person thought to be involved in criminal activity or in violation of the APS Student Code of Conduct. Reasonable suspicion is more than a mere hunch or supposition. Articulate facts establishing criminal behavior or code of conduct violations may not be based on a person’s race, color, religion, national origin, sex, gender identity, sexual orientation, age, or disability, except when those factors are used as descriptors to identify a suspect. (*Merriam-Webster.com Legal Dictionary*) (ACPD Directive 536.06) (Virginia Department of Education School Search Resource Guide)

Restorative-based - Practices effectively used to reduce suspensions, expulsions, and disciplinary referrals. Restorative justice focuses on righting a wrong committed and repairing harm done. The goal is to place value on relationships and focus on repairing relationships that have been injured.

(<http://schottfoundation.org/sites/default/files/restorative-practices-guide.pdf>)

Trauma-informed – Recognizing the prevalence of adverse childhood experiences and that many behaviors are the result of traumatic experiences. Being treated with respect and kindness, and empowered with choices, are key in helping people recover from traumatic experiences. ([SAMHSA’s Trauma-Informed Care in Behavioral Health Services: Quick Guide for Clinicians](#))