



INTER-AGENCY GOVERNANCE AGREEMENT ON THE HANDLING OF SCHOOL OFFENSES

I. Introduction

Schools and law enforcement share responsibility for school safety and must work together with complimentary policies and procedures with the goal of a safe learning environment for everyone. This document expresses the agreement of the parties for responding to non-emergency school disruptions. It strives to ensure a consistent response to incidents of student misbehavior, clarify the role of law enforcement in school disciplinary matters, efficiently utilize alternative support services and reduce involvement of law enforcement and court agencies for minor misconduct at school and school-related events. While this Agreement deals with the response to non-emergency school disruptions, the parties hereto also acknowledge the importance of cooperation between school officials and law enforcement in response to emergency and safety issues.

The parties agree to the following principles upon which this agreement is founded.

- A. The vast majority of student misconduct can be best addressed through classroom, in-school, family and community strategies and maintaining a positive climate within schools rather than by involvement of the justice community.
- B. The response to school disruptions should be reasonable, consistent and fair with appropriate consideration of relevant factors such as the age of the student, the nature and severity of the incident and the impact of the conduct on the learning environment.
- C. Students should be held accountable for their actions. When appropriate, a graduated response to minor misconduct that provides a continuum of services and increasingly more severe sanctions for continued misbehavior should be used.
- D. Disruptive students, who do not commit more serious offenses, should receive appropriate redirection and support from in-school and community resources prior to the consideration of the involvement of the law enforcement, or referral to court. This does not excuse compliance with mandatory reporting laws and policies.
- E. Clarifying the responsibilities of school and law enforcement personnel with regard to non-emergency disruptive behavior at school and school-related events promotes the best interests of the student, the school system, law enforcement and the community at large.
- F. Implementation of this plan will require regular meetings, multi-disciplinary trainings, annual evaluation of the plan, and an ongoing commitment to fostering the relationships that are the foundation of this agreement. The parties acknowledge that this agreement shall not inhibit, discourage or prevent individual victims of student misconduct from initiating criminal or juvenile charges against students, when they believe it is appropriate to do so, nor shall it affect the prosecution of such charges.

- G. This agreement is primarily focused on criminal or juvenile charges against students and shall not prevent or inhibit the disciplinary reassignment, suspension or expulsion of students, when appropriate, by Principals, the Superintendent of the New Hanover County Schools or the New Hanover County Board of Education, when they deem it to be appropriate and in accordance with State law and the Policies of the New Hanover County Board of Education. It shall not be necessary to implement a graduated response before students may receive a disciplinary reassignment, suspension or expulsion, when appropriate, in the discretion of school officials.
- H. The parties agree that SROs are employees of either the City of Wilmington or New Hanover County and are not agents of the New Hanover County Board of Education. Nothing in this agreement shall be construed to make the New Hanover County Board of Education, its Board Members, employees or agents, liable for the acts or omissions of any SRO or other law enforcement officer.
- I. To the extent that this agreement conflicts with any applicable law or regulation, the applicable law or regulation shall control.
- J. Violations of this agreement shall not give rise to or be construed as creating a cause of action by any person against any party to this agreement or their employees or agents, nor shall such violations be considered negligence per se.
- K. Nothing in this agreement shall be construed as increasing the common law standard of care owed by the parties, or any of them, to any person. This agreement shall not be construed as to confer any additional benefit or right on students above what is owed to them by the New Hanover County Board of Education under the Individuals with Disabilities Education Act (as amended), Section 504 of the Rehabilitation Act or other law or regulation.
- L. No person is a third party beneficiary of this agreement.
- M. All parties to this agreement shall comply with the requirements of the Jessica Lunsford Act, as enacted in North Carolina.

II. Terms of the Agreement

A. Summary of Key Points

The parties agree to:

1. Convene a Progress Monitoring Team for the purpose of monitoring and oversight of the Inter-Agency Governance Agreement on the Handling of School Offenses when it is implemented.
2. Share this agreement with a copy to all school and law enforcement personnel;
3. Provide necessary and regular staff training on implementation of the agreement;
4. Thoroughly investigate student misbehavior and, when appropriate, put into practice a graduated response prior to referral to court;
5. Clarify the role of the School Resource Officer (SRO) and law enforcement in schools;
6. Monitor implementation of the agreement;
7. Collect data and assess the effectiveness of the agreement;
8. Modify the agreement as appropriate and review at least annually;
9. Assemble a threat assessment team in the event warning signs of serious behavior appear.

B. Key Factors in Making Disciplinary Decisions

The parties agree that when determining consequences for students' disruptive behavior all relevant factors, including but not limited to the following factors shall be considered, if information on the factors is available.

1. Age, health, risks, needs and disability or special education status of the student.
2. Intent, context, prior conduct and record of behavior of the student.
3. Previous interventions with the student.
4. Student's willingness to repair the harm.
5. Parents' willingness to address any identified issues.
6. Seriousness of the incident and degree of harm caused.
7. 7. The effect on the educational environment by the student's continued presence in school.

The parties agree that when determining consequences for students' disruptive behavior that race/ethnicity, gender, gender identity, sexual orientation, religion and national origin of the student and family will **NOT** be considered.

C. Graduated Response Model to Minor Infractions

Classroom Intervention - The classroom teacher has always played a prominent role in guiding, developing and reinforcing appropriate student conduct and is acknowledged as the first line in implementing the school discipline code and shaping school climate in the classroom. As such, this model begins with a range of classroom management techniques that should be implemented for minor classroom infractions prior to any other sanctions or interventions. Classroom intervention is managed by the teacher for behaviors that are passive and non-threatening such as dress code violations and violations of minor classroom rules. School Resource Officers (SROs) should not be involved at this level. Classroom intervention options might include redirection, re-teaching, school climate initiatives, moving seats and the teacher should initiate parental contact.

School Administration Intervention - Classroom interventions must be supported by school administrators who address more serious or repetitive behaviors and behaviors in school but outside of the classroom. Examples of behaviors at this level include repetitive patterns, defacing school property, truancy, threats, and minor behaviors in hallways, bathrooms, courtyards and school buses. Administration intervention options might include, but is not necessarily limited to, time in the office, in school suspension, redirection, after school detention, loss of privilege, reparation, and/or parent conference Referral to appropriate school or district social services may be justified.

School Based Team - When the behavior and needs of the student warrant, an assessment process and intervention with the use of school and community services may be appropriate. This intervention is managed by the school administrator with a school based team. The team should consist of individuals knowledgeable about the student including one or more teachers, administrators, support personnel, and when appropriate, family, the student and community members. Repetitive truancy or defiance of school rules, and behaviors that interfere with others such as vandalism or harassment belong at this level as well as

misbehaving students who would benefit from service provision. Assessment and service intervention options should include any Classroom or School Administration interventions and might include referral to community service or community based program, in-school suspension, out- of-school suspension, expulsion or referral to court. Truant behavior should not lead to an out-of-school option. School Resource Officers can be involved in their role on the school based team.

Law Enforcement Intervention - Only when classroom, school, family and community options have been found ineffective (or in cases of serious misconduct or an emergency) should the school involve law enforcement, including the SRO. Involvement of law enforcement does not necessarily mean arrest and referral to court. This intervention is managed by law enforcement. Behaviors at this level must be violations of criminal law. Law enforcement options may include verbal warning; written warning conference with the student, parents, teachers and/or others; teen court, and/or community agencies; community service, criminal charges, juvenile charges and referral to court.

School Based Graduated Response Model to Minor Infractions

Each school should develop their own school based graduated response model that fits their school's needs and resources. The goal is to make sure all appropriate interventions, including positive interventions, have been pursued for every student before any involvement of law enforcement will be considered for minor student conduct violations. This chart is to help professionals at each level of intervention understand the type of options available to them. It is understood that when there is serious misconduct, including but not limited to conduct involving weapons, violence, sexual misconduct or drugs involved, there may be immediate law enforcement responses that are appropriate. Each school should develop their own chart since each school has different resources. Schools that utilize programs such as Positive Behavioral Interventions and Supports (PBIS) may already have a graduated response model in place. This graduated response model is a refined multi-tiered system of supports (MTSS).

At each level of intervention it should be assessed whether the Focused Acts (as defined below) are due to academic, mental health, or social issues. Note that many student behaviors could be a result of overlapping issues. For example, a student who is behind academically for not completing homework may be frustrated and acting out in class. But there also may be issues at home where the student is responsible for caring for younger siblings that could be addressed to help allow for homework time. A graduated response model encourages professionals to find student support solutions when possible. Repeated punishments may not be effective if there are significant underlying causes to student misbehavior and the student's presence in school is not interfering with the learning environment. When discipline is warranted there should be efforts to make it logical and natural. For example, if a student defaces property they could be required to make repairs and reparations. If a student skips class, suspension is not logical since the student will miss even more class time. Instead, lunch detention to make up missing work, for example, may make more sense.

Graduated Response Model Example

	Types of Behavior	Intervention Options
Teacher/Classroom or School Interventions	<ul style="list-style-type: none"> • Dress code violations • Isolated and minor acts of disobeying classroom behavioral expectations • Not meeting academic expectations • Late to class • Refusing to do work 	Tier I and Tier II Interventions (see Appendix B) <ul style="list-style-type: none"> • Redirection • Journaling/Reflection • Re-teaching, tutoring, differentiation • Moving seats • Contacting parents • School climate initiatives: Involvement with school wide interventions* • Referral to appropriate support personnel: school counselor, social worker, graduation coach, nurse, school psychologist+
Administrator/School or District Interventions	<ul style="list-style-type: none"> • Repeated behavior expectations violations • Truancy • Late to school • Fighting • Sexting/social media (other than communicating threats) 	Tier II Interventions (see Appendix B) <ul style="list-style-type: none"> • Referral to appropriate support personnel+ • In School Suspension with academic support and social skills training, • Targeted interventions such as Why Try, STAE, Mind Up, Rape Crisis program, ABE Alternative Education Modules • School Service Learning • If no improvement refer to School Based Team
Student Based Team/ District or Community Interventions	<ul style="list-style-type: none"> • Repeated school rule violations • Failure in classes • Difficulty with behavior in multiple school settings • Excessive absenteeism 	Tier III Interventions (see Appendix B) <ul style="list-style-type: none"> • Functional Behavioral Assessment (FBA) with Behavior Intervention Plan (BIP) • Family Involvement Team and plan (FIT) • Multi-Tiered System of Support (MTSS) referral for academic and/or behavioral supports, Personal Education Plans (PEP) • McKinney–Vento considerations (homelessness) • Referral to targeted or intensive interventions *** • Out of school suspension should be avoided when possible and not used for absenteeism or tardies
Law Enforcement Interventions	<ul style="list-style-type: none"> • Weapons • Drugs • Battery • Communicating Threats 	Tier III Interventions (see Appendix B) <ul style="list-style-type: none"> • Teen Court • Community Service • Judicial Justice System as last resort

+ This list is not exhaustive. Referral to appropriate support personnel: School counselor, social worker, graduation coach, nurse, school psychologist. At times, other personnel such as speech language pathologists or occupational therapists may be important resources for children. Some schools additionally house non-profit support personnel. Examples include Communities in Schools site coordinators and Wilmington Health Access for Teens has physical and mental health counselors.

* School-wide initiatives and School Climate initiatives. Character Education, Bullying prevention and response, classroom management, experiential learning, Peer Mediation Community service projects, Career Tech Ed, academic guidance and support, sports, clubs (goal setting, time management, self-discipline, team work...) PATHS, TGFV, GREAT

** Targeted supports for groups of students: Why Try, Striving to Achieve Excellence (STAE), Connect with Kids, Seven Habits of Highly Effective Teens, Mind-up, Connected Schools

*** Intensive Supports for individual students: Coastal Horizons Substance Abuse Interventions, CROSSROADS, Pathways, individual counseling, Special Education referral/IEP's, Section 504 plans, Emergency Medical Plans, Lake Forest Academy, Access Day Treatment, Hospital- Homebound services, Health Department/Mental Health services, Learning Perspectives, WHAT, Community Crisis Response Team, ELEMENTS

Note: If the student ever expresses suicidal thoughts or there is evidence or reports of child abuse, neglect or self-injurious behavior those should be reported immediately.

D. Focused Acts

There are multitudes of ways students may act that subject them to discipline. Non-criminal conduct may subject a student to discipline and, in appropriate cases, trigger the implementation of the graduated response model.

The following is a list of minor criminal offenses that may occur in schools that would trigger implementation of the graduated response model. Each situation must still be evaluated as set out herein to address safety concerns, the learning environment for other students and whether the conduct suggests that more serious problems exist.

- a. Affray (not involving serious physical injury or weapons and no heightened level of concern)
- b. Simple Assault (not involving school personnel and no heightened level of concern)
- c. Disorderly Conduct
- d. Misdemeanor Larceny
- e. Simple Possession of Marijuana (personal use)
- f. Possession of Drug Paraphernalia (personal use, related to use of marijuana, and no evidence of sale)
- g. Possession or smoking cigarettes or nicotine containing products including e-cigs, under age
- h. Damage to property (real property or personal property, damage less than \$1,000, no heightened level of concern)
- i. Possession/Use of Alcohol

E. Law Enforcement (not SRO's) Activity at Schools

The parties agree that non-SRO law enforcement officers need to follow certain protocols when on school grounds in non-emergency circumstances as follows.

1. Law enforcement will endeavor to act through school administrators whenever they plan any activity on school grounds, when appropriate.
2. Law enforcement officers entering school grounds will be aware of the potential disruption of the educational process that law enforcement presence may cause.
3. Prior to entering a school to conduct an investigation, arrest or search, law enforcement officers will consider the necessity of such action based on:
 - a. The potential danger to persons;
 - b. The likelihood of destruction of evidence or other property;
 - c. The ability to conduct the investigation, arrest or search elsewhere
 - d. Other factors relevant to law enforcement and public safety.

4. When taking a student into custody:
 - a. Law enforcement officers should make reasonable efforts to avoid making arrests or taking students into custody on the school premises, when appropriate.
 - b. Whenever possible and appropriate, students should be taken into custody out of sight and sound of other students.
 - c. The safety of persons in the paramount concern and law enforcement officers shall not be limited by this agreement if in their professional judgment, students should be taken into custody on school premises or in the sight or sound of other students.

F. Role of the School Resource Officer (SRO)

The mission of the SRO is to improve school safety and the educational climate at the school, not to enforce minor incidents of school discipline or punish students. The SRO's presence on school campus is desirable to reduce the likelihood of weapons, drugs, and persons with the intent to commit harm from entering upon the campus or to attempt to disable persons with intent to harm and confiscate weapons and drugs that enter campus premises. This primary safety concern could be compromised when SROs are removed from campus to transport students on Focused Acts or when distracted on campus by students committing Focused Acts. Absent a real and immediate threat to student, teacher, or other school official, and absent the situations described herein where SRO intervention is deemed appropriate, the school administrators shall be responsible for the handling of situations and shall not direct an SRO to take action contrary to the terms, conditions, and spirit of this agreement and the role of the SRO that would result in the unnecessary filing of a juvenile petition, citation, or arrest.

G. Prerequisites to Filing a Juvenile Petition/Citation/Arrests

The parties agree that Focused Acts are considered school discipline issues to be handled by school officials and are not deemed criminal law issues warranting the filing of a juvenile petition or criminal citation unless the student has committed at least two (2) separate prior Focused Acts within the same school calendar year and each incident documented using the Warning Notice.

1. Warning Notice

The Warning Notice is a discretionary tool that is not required unless the SRO deems it just and appropriate. The SRO's discretion shall take into consideration certain factors that include but not limited to the student's overall discipline record, academic record, nature of the offense, display of remorse, attitude toward others, and the disciplinary action taken by the school administrator. Nothing in this agreement shall be construed to require or mandate the use of a Warning Notice upon the commission of a Focused Act. A Warning Notice shall not be issued without first consulting with an administrator to ascertain the disciplinary response of the administrator. The administrator's disciplinary response shall be given greater weight in mitigation of issuing a Warning Notice unless the nature of the act complained of and the needs of the student warrant additional action and/or services. The decision to issue a Warning Notice shall be made on a case by case basis using SRO discretion as described above. School administrators are prohibited from directing the SRO to issue a Warning Notice, cite or arrest a student, or file a juvenile petition. The SRO may apply verbal admonishments or counsel in lieu of a Warning Notice. The parties shall consult on the development of the Warning Notice.

2. Intervention

A commission of up to 2 Focused Acts in the same school year may result in a referral to a graduated program made available by the school, juvenile court, or community. SROs are not required to make a referral and may admonish and counsel or give another warning using the Warning Notice, or defer to the disciplinary action taken by the administrator.

A referral is made using the Warning Notice and forwarded to the School Based Team. If it is serious enough to warrant juvenile justice intervention or warrants criminal charges, the SRO follows appropriate procedures.

The commission of a third Focused Act in the same school year may result in the filing of a juvenile petition, or charge as an adult (16 and older) but is not mandated by this agreement. The SRO has discretion to take other action that includes deferment to the administrator's disciplinary action, admonishment and counsel, or a referral to a graduated response program.

3. Exigent Circumstances

The parties from their experience acknowledge that there may be situations that warrant removal of a student from the campus to maintain safety of other students and school staff or to prevent or stop disruptions to the learning environment.

The SRO and administrator shall always utilize least restrictive measures appropriate to the circumstances to remove a student from campus beginning with parental contact to retrieve their child.

Arrest and detention of a juvenile (student under 16 years of age) shall only take place in accordance with existing North Carolina Law.

4. Probation Exception

Under existing law a juvenile petition cannot be filed on a student who is serving probation under the supervision of the juvenile court without obtaining approval from the Division of Juvenile Justice and Delinquency Prevention. If a SRO has knowledge that a student 16 years of age or older is on adult probation, the SRO will make every effort to contact probation before charging on offenses within this Inter-agency Agreement.

5. Special Education and Section 504 Prerequisites

A juvenile petition or adult citation or warrant shall not be filed alleging a Focused Act against a student with an IEP or Section 504 Plan without first considering the student's IEP or Section 504 Plan and determining what actions are required under the IEP or Section 504 Plan to remedy the behavior or if the IEP or Section 504 Plan should be modified to assess the behavior giving rise to the conduct. If the SRO believes that a juvenile petition or adult citation or warrant is appropriate and the student has an IEP or Section 504 Plan, the SRO shall act immediately to bring the matter to the attention of the administrator to take appropriate steps in accordance with the IDEA/ADA and for the protection of the student's rights, and the rights of others, under the law.

6. Bullying

Written policies already exist in the New Hanover County Schools for response to bullying, consistent with the Safe Schools Act.

7. Felony Offenses

The parties acknowledge that some felony offenses may not warrant a juvenile petition due to the nature of the offense (e.g. no physical injury) coupled with the discretionary factors described above and the needs of the student, especially involving students diagnosed with Learning Disabilities (LD) and Emotional Behavioral Disorder (EBD). The parties agree that SROs are not mandated to refer a student to juvenile court on a petition or charge as an adult because the allegations are felonious. The SRO shall have the discretion to make the determination in consultation with the administrator.

The parties have acknowledged that it is in the best interests of the student to divert from criminal justice system when warranted to avoid the stigmatization of criminality. The parties further acknowledge that it is a best practice for SROs to refrain from unnecessary filings that would otherwise minimize SRO visibility and presence on school campus and diminish the effectiveness of the Positive Student Engagement Model supported by the parties.

The parties agree that in cases involving felony allegations that may warrant alternatives to filing a juvenile petition, the SRO may consult with the juvenile court intake supervisor for recommendations and/or direction.

8. Diversion

SRO's are encouraged to utilize Teen Court as a diversion even though a case could be referred to court. SRO's must contact the Teen Court Coordinator for approval. This is true even for offenses that have not been historically approved for Teen Court referral such as the misdemeanor weapon on campus offense.

9. Arrest and Detention

No student accused of a Focused Act shall be placed in a secure facility unless approved by a juvenile court intake officer and District Court Judge. If a student meets the criteria for filing of a juvenile petition, it is presumed that the student will be released to his parent, guardian, custodian, or relatives to be returned to his legal caretaker.

In accordance with the law, a judge or designee shall not detain a child unless the statutory factors for secure custody have been evaluated. The juvenile court employs a Detention Assessment Tool to determine the risk of re-offending on acts resulting in serious bodily injury, theft and property destruction.

In the case of criminal charges (age 16 and above), citations should be used unless safety and risk factors necessitate arrest and an initial appearance before the magistrate.

10. Treatment of Elementary Age Students

Generally, juveniles of elementary age do not possess the requisite knowledge of the nature of court proceedings and the role of the various players in the courtroom to assist his or her defense attorney and/or grasp the seriousness of juvenile proceedings, including what may happen to them at the disposition of the case. The parties agree that a juvenile petition or juvenile court intake shall not be filed on an elementary age student without first consulting with law enforcement officer. The tender age of elementary students demands that least restrictive measures be utilized to address the chronic disruptions of the student. The parties agree that elementary age students are not subject to these conditions, criteria, and agreements of this agreement and shall be handled in accordance to their age and state of mind.

11. Parents, Guardians and Private Service Providers

Parties to this Inter-agency Agreement encourage parents, guardians and private service providers to involve schools in the treatment plan of students. Wrap-around services are more effective when all of the professionals and service providers that work with a student share relevant information.

H. Data Sharing, Collection and Monitoring

The parties agree that they will provide baseline data for comparison purposes and regularly collect, share, monitor and report data resulting from the implementation of this agreement.

Data Collection – on a quarterly basis, the following information will be collected. No identifying data should be included in the reports to protect student privacy and confidentiality.

School—number and types of disciplinary actions, numbers and demographics of students involved, referrals to law enforcement.

Law Enforcement—number and types of school incidents for which law enforcement incident reports are written, law enforcement actions on incidents.

Support Services- number and types of referrals, interventions/programs, outcomes.

Data Sharing- On a regular basis that should not exceed a month, any agency (school, law enforcement, social services, mental health, other services) that refers a student to another agency should request follow-up information to determine what actions have occurred. Information sharing agreements (Mutual Exchange of Information Form) should be requested from the parents so private agencies can also share information with the schools. Regular follow-up and data sharing is required for monitoring of individual student progress and determination of service needs.

For comparison purposes, the parties agree to retrieve the above data for a year prior to the signing of the agreement and quarterly after the signing of the agreement.

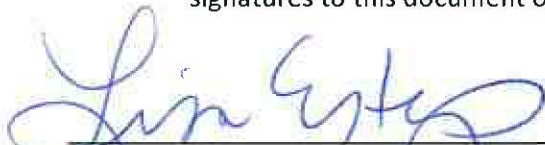
Progress Monitoring – on a regular basis and at least quarterly, parties acknowledge and agree that the Progress Monitoring Team composed of members from each stakeholder group (schools administration, school support services, school resource officers, law enforcement, mental health, researcher, community justice, community members, youth, service providers)

will meet to provide oversight of the agreement and review relevant data and analysis. Each year the Progress Monitoring Team will determine if changes to their memberships would be beneficial. At least annually, the Team will prepare a report of activities and make recommendations for improvements to the agreement and/or its implementation. See Appendix C for team membership.

I. Duration and Modification of Agreement

This agreement shall become effective Tuesday, June 18, 2019 and shall remain in full force and effect for three years from its effective date. The agreement may be modified or extended at any time by amendment to the agreement.

In witness whereof, the parties hereto, intending to cooperate with one another, have set their signatures to this document on this day.



Lisa Estep, Chairman, New Hanover County Board of Education

June 18, 2019

Date



Tim Markley, Superintendent, New Hanover County Schools

June 18, 2019

Date



J.H. Corpening, II; Chief District Court Judge

June 18, 2019


Date



Ben David, Prosecutor, 6th Judicial District

June 18, 2019

Date



McKinley Wooten, Director, NC Administrative Office of Courts

June 18, 2019

Date



Ed McMahon, Sheriff, New Hanover County

June 18, 2019

Date



Jonathan Barfield, Chairman, New Hanover County Board of Commissioners

June 18, 2019

Date

Ralph Evangelous, Chief of Police, City of Wilmington

June 18, 2019


Date



Bill Saffo, Mayor, City of Wilmington

June 18, 2019

Date

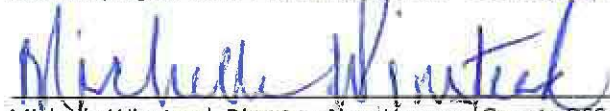


Dan House, Chief of Police, Town of Wrightsville Beach

Chris Spivey, Chief of Police, Town of Carolina Beach



Robert Speight, Chief Court Counselor, 5th District, Depart of Public Safety



Michelle Winstead, Director, New Hanover County DSS



Phillip Tarte, Director, New Hanover County Health Department

Date

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