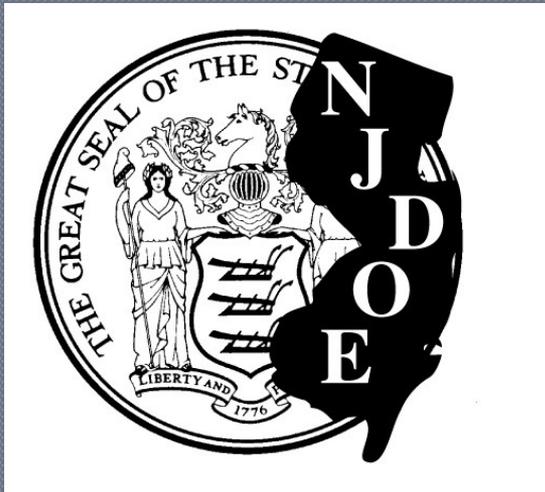


Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials



Understanding the 2015 Revisions

Education-Law Enforcement Working Group

- Established in 1988
- Comprised of representatives from the New Jersey Department of Education, the Office of the Attorney General and related professional organizations
- Committed to working together as partners to address substance abuse and other issues affecting school-aged children
- Reconvened in 1992, 1999, 2007, 2011, & 2015

Overview of the MOA

- The MOA is a signed agreement between law enforcement and education officials
- Effective cooperation helps to ensure a safe educational environment
- Annual adoption and implementation of MOA required by all:
 - Public school districts
 - Charter schools and Renaissance school projects
 - Jointure commissions
 - Educational services commissions
 - Approved private schools for students with disabilities

Non-Public Schools

- Non-public schools are not required to adopt and implement the MOA
- New Jersey Catholic Conference developed a separate version of the MOA based on the uniform version
 - Diocese requires diocesan superintendent, the chief school administrator and law enforcement officials to annually review and sign this MOA
 - May be obtained by contacting a Catholic school or diocesan offices

Annual Review

N.J.A.C. 6A:16-6.2(b)14

- The MOA must be reviewed annually by the chief school administrator and appropriate law enforcement officials to:
 - Discuss implementation and need for revising the MOA and
 - Review effectiveness of policies and procedures
- Must include input from the executive county superintendent, community members, and meeting(s) with the county prosecutor and other law enforcement officials
- May include additional local provisions to address specific problems or concerns in the MOA
- Not permitted to delete or alter provisions of the uniform MOA

2015 Revisions to the MOA

Revisions to Terminology

Old Language	New Language
Division of Youth and Family Services (DYFS)	Child Protection and Permanency (CP&P)
County Superintendent	Executive County Superintendent

Updates to Current Information

Revised Articles

1.1: The Predecessor Agreements	1.2: Nature of the Problem
4.3.1: Substance Abuse Confidentiality Laws	4.20: Offenses Involving Computers, the Internet and Technology
5.1: Statutory Authority to Disclose Information	9.4: Legal Questions During Conduct of Law Enforcement Searches
12.2: Approval and Supervision of Educational Curricula	15.3: Distribution

Regulations at *N.J.A.C. 6A:16*, Programs to Support Student Development, were readopted after the 2011 MOA. All related citations in the 2015 MOA were updated to reflect current regulations (as of August, 2015).

Clarifying Information

Revised Articles

2.1: Liaisons	Provided suggestions for school liaisons
8.1: Development of School Safety and Security Plans	Further explained development of school safety and security plans, and included requirements for monthly security drills
8.5: Bias Intimidation Crimes	Renamed “Bias” Crimes and “Bias-Related” Acts (previously article 8.4) and explained that bias intimidation crimes may constitute harassment, intimidation or bullying (HIB)
13.5: Safe Schools Resource Officers	Included the definition of a “safe schools resource officer”

Addition of New Sections

Sections Added to 2015 MOA

1.11: Juvenile Conference Committees

1.12: Designer Drugs

1.13: Prescription Controlled Dangerous Substances

4.1.2: Overdose Prevention Act

4.1.4: Self-Administration of Medication by Students

Addition of New Sections (cont.)

Sections Added to 2015 MOA

4.1.5: Compassionate Use Medical Marijuana Act

8.7: Cyber-Harassment

8.8: Sexting

Addendum 2: Unsafe School Choice Option Policy

Article 1.11

Juvenile Conference Committees (JCCs)

- A panel of citizens appointed by the Judge assigned to the Family Division of Superior Court
- Provides an alternative to adjudicating matters involving alleged juvenile offenders

JCC
discusses
offense



Makes
recommendation
to court



Recommendations
and conditions
become court
order and
monitored by JCC



Case
against
juvenile
may be
dismissed

Article 1.12

Designer Drugs

- ◉ Designer drugs are chemically modified substances that mimic the effects of a controlled dangerous substance (CDS), but initially avoid the CDS designation
 - “Bath Salts” (synthetic cathinones)
 - “Synthetic Marijuana” (synthetic cannabinoids)
- ◉ Many products falsely labeled “not for human consumption”
- ◉ Banned in US and NJ
- ◉ School officials and law enforcement need to be mindful of designer drugs in school settings and among youth

Article 1.13

Prescription Controlled Dangerous Substances

- Rates of prescription misuse and abuse are increasing at alarming rates
- Medications such as prescription opioids may also serve as gateway to heroin use
- Students should not be in possession of CDS prescription medication on school grounds unless a certification and medical plan is on file at the school (Section 4.1)
- School officials and law enforcement must:
 - Be alert for signs and symptoms of misuse and abuse
 - Focus on evidence-based prevention education

Article 4.1.2

Overdose Prevention Act

- Encourages individuals to seek medical assistance whenever a drug overdose occurs
 - In certain situations, a person will not be arrested, charged, prosecuted or convicted of certain criminal offenses involving the use or possession of CDS
- Does not apply to possession that comes to attention of law enforcement by independent means
- Does not apply to manufacture, distribution or intent to distribute offenses
- School officials and law enforcement should be mindful of these immunity provisions

Article 4.1.4:

Self-Administration of Medication by Students

- Self-administration of medication by students is permitted for specific medical conditions
 - Asthma, life-threatening allergies and other potentially life-threatening medical conditions
- Parent or guardian must submit the following to the district board of education:
 - Written certification from the student's physician
 - Written authorization from the parent or guardian and
 - Written waiver of liability
- School nurse must maintain:
 - Individualized health care plan and
 - Individualized emergency health care plan

Article 4.1.5

Compassionate Use Medical Marijuana Act

- Provides protections to authorized patients who use marijuana to alleviate suffering from debilitating medical conditions
- Does not permit smoking of medical marijuana in a school bus or on school grounds
- District boards of education should consult with their attorney about oral consummation of medical marijuana at any protected locations
- New Jersey Department of Health is responsible for the Medical Marijuana Program
 - <http://nj.gov/health/medicalmarijuana/index.shtml>
- Enforcement guidelines are available for use by law enforcement
 - <http://www.njdcj.org/agguide.htm>

Article 8.7

Cyber-Harassment

- Online communications that threaten to inflict a crime, an injury, physical harm, or are made with intent to emotionally harm or to place a reasonable person in fear of physical or emotional harm
 - Criminal offense
 - May be charged as 3rd or 4th degree felony
- School officials must report to law enforcement any cyber-harassment incident that may constitute a criminal offense
- Cyber-harassment may also constitute HIB
- Law enforcement must notify school principal of alleged victim if it is reported to law enforcement that the student may be a victim of HIB

Article 8.8

Sexting

- Sending of sexually explicit photos by electronic means (e.g., texting)
- If individual depicted is a child (a person younger than 18), sexting may constitute a criminal offense
 - Illegal to transfer, disseminate, distribute, circulate, or possess child pornography
- Penalties may include incarceration and registration as a sex offender
- Teens charged with child pornography as a result of sexting may qualify for alternative to criminal prosecution
 - Both the creator and subject of the sexting image must be younger than 18 to be eligible

Article 8.8.1

Reporting of Sexting

- School officials must report to law enforcement any sexting incident that may constitute a criminal offense
- Sexting may also constitute HIB
- Law enforcement must notify school principal of alleged victim if it is reported to law enforcement that the student may be a victim of HIB

Addendum 2

Unsafe School Choice Option Policy

Provision II: Victims of Violent Criminal Offenses

- Applies to all school buildings that are part of a local education agency (LEA)
- Student who becomes a victim of violent criminal offense while in or on the grounds of the public school he/she attends must be allowed to transfer to another school within the LEA
- Criteria for making this determination may be found at:
 - <http://www.nj.gov/education/grants/nclb/policy/unsafe.htm>

Significant Changes to Current Articles

Revised Articles

1.10: Stationhouse Adjustments

8.4: Harassment, Intimidation, or Bullying (HIB)

8.6: Hazing

8.9: Coordination of HIB and Criminal Investigations

Article 1.10

Stationhouse Adjustments

- Alternative method to handle first-time juvenile offenders who committed minor juvenile delinquency offenses
 - Provides a prompt resolution for the victim
 - Immediate consequences issued (e.g., community services, restitution)
 - Prevents creation of juvenile delinquency record
- All law enforcement agencies may utilize stationhouse adjustment to handle minor offenses
- A school only needs to be notified if it is the victim of the crime (e.g., trespassing on school property, theft)

Article 8.4

Harassment, Intimidation or Bullying

○ *Anti-Bullying Bill of Rights Act (ABR)*

- Defines harassment, intimidation, or bullying (HIB)
- Sets standards and procedures for preventing, reporting, investigating and responding to incidents of HIB of students
- School districts must comply with all provisions
- Law enforcement should be involved in development of HIB policies

○ NJDOE developed model policy, guidance, and resources

- <http://www.state.nj.us/education/students/safety/behavior/hib/>

Article 8.4.2

HIB's Relationship to Criminal Conduct

- ABR does not criminalize HIB
- HIB is not a criminal offense
- HIB is criminal if the underlying conduct violates a provision of the New Jersey Code of Criminal Justice, such as:
 - Bias intimidation
 - Hazing
 - Cyber-harassment
 - Assault
 - Threat
 - Robbery
 - Sexual offenses

Article 8.4.3

Reporting of HIB

8.4.3.1. Reporting of HIB by Law Enforcement to Schools

- Law enforcement must notify school principal of alleged victim if it is reported to law enforcement that the student may be a victim of HIB
- Law enforcement may notify the principal of the school at which a juvenile is enrolled and where the juvenile is under investigation, or taken into custody but has not been formally charged if notification is:
 - Useful in maintaining order, safety, or discipline in the school OR
 - Utilized to plan programs for the juvenile's educational and social development
- Notification must be provided when the alleged offending student is a minor *or* adult

Article 8.4.3

Reporting of HIB (cont.)

8.4.3.2. Reporting of HIB by Schools to Law Enforcement

- School officials must report to law enforcement any HIB incident that may constitute a criminal offense
- Criminal offenses must be reported to law enforcement if offense qualifies as a mandatory referral, such as:
 - Violation of the Comprehensive Drug Reform Act
 - Firearm possession on or off school grounds
 - Intent to cause death, serious bodily injury, or significant bodily injury to another
 - Criminal sexual penetration or contact
- School officials should also inform victims of HIB that they may report alleged offense to law enforcement

Article 8.4.3.3

Reporting of HIB to Division on Civil Rights

- Incidents of HIB may also implicate New Jersey's Law Against Discrimination
- Violation may occur if school district's failure to reasonably address HIB has the effect of denying to a student any of a school's accommodations, advantages, facilities, or privileges based on:
 - Race, creed, color, national origin, ancestry
 - Sex
 - Pregnancy
 - Marital status, domestic partnership, civil union status
 - Affectional or sexual orientation, gender identity or expression
 - Mental or physical disability, perceived disability
 - AIDS and HIV status
- Potential violations may be reported to the New Jersey Division on Civil Rights
 - 973-648-4817

Article 8.6

Hazing

- Defined as a process, based on tradition, that is used by groups to maintain a hierarchy within the group (i.e., a pecking order)
- Individual must prove worthiness to become a member of the group by engaging in activities that are physically or psychologically stressful
 - Activities may be humiliating, demeaning, intimidating, and exhausting
 - May exist regardless of consent
- Once accepted by the group, a victim of hazing may become a bystander, achieve higher status and ultimately become a perpetrator

Article 8.6

Hazing (cont.)

- Hazing is a separate criminal offense
 - Disorderly person offense or crime of 4th degree
 - May involve other criminal offenses (e. g., sexual assault, robbery)
 - Participation of coach or teacher may constitute child abuse
- School officials must report to law enforcement any hazing incident that may constitute a criminal offense
- Hazing may also constitute HIB
- Law enforcement must notify school principal of alleged victim if it is reported to law enforcement that the student may be a victim of HIB

Article 8.9

Coordination of HIB and Criminal Investigations

○ HIB Investigation

- School district determines if conduct violated *Anti-Bullying Bill of Rights Act (ABR)*

○ Criminal Investigation

- Law enforcement determines whether conduct violated the New Jersey Code of Criminal Justice

○ Important to avoid hampering the independent efforts of both parties

- School district investigation should be stayed when concern that witness statements and/or evidence could adversely affect criminal investigation

Article 8.9

Coordination of HIB and Criminal Investigations

- School district's HIB investigation should be stayed or suspended if requested by law enforcement

Law Enforcement

When deemed appropriate, law enforcement may request that a school district stay or suspend its HIB investigation



School District

Memorialize request in writing AND

Advise parent or guardian of both alleged perpetrator and victim of request



Law Enforcement

If parent or guardian objects to stay, law enforcement should obtain a formal court order

Article 8.9

Coordination of HIB and Criminal Investigations

- ◉ During the suspension or stay of the investigation, school district must safeguard the health and welfare of its students
- ◉ Anti-bullying specialist resumes HIB investigation:
 - Upon completion of law enforcement investigation
AND
 - Notification from county prosecutor
- ◉ 10 school day timeframe is suspended during the stay of investigation

Annual Review of the MOA

Facilitating the Annual Review

Activity	Person Responsible
<ul style="list-style-type: none">•Schedule meetings with the Chief of Police or Station Commander, as appropriate, to discuss the revised MOA	Chief School Administrator
<ul style="list-style-type: none">•Meet to discuss and review the MOA•After the meeting, both individuals sign five (5) copies of the MOA<ul style="list-style-type: none">•Note: Attach any additional approved MOA provisions and contact information to each signed copy of the MOA•Forward the five (5) signed copies to the Executive County Superintendent	Chief School Administrator, Chief of Police or Station Commander
<ul style="list-style-type: none">•Review, approve and sign the five (5) copies of the MOA•Forward the signed copies to the County Prosecutor	Executive County Superintendent

Facilitating the Annual Review (cont.)

Activity	Person Responsible
<ul style="list-style-type: none">•Review, approve and sign the five (5) copies of the MOA•Retain one (1) original copy of signed MOA for his/her file•Forward one (1) original copy of signed MOA to Chief of Police or Station Commander•Return three (3) copies of signed MOA to Executive County Superintendent	County Prosecutor
<ul style="list-style-type: none">•Retain one (1) original copy of signed MOA for his/her file•Forward one (1) original copy of signed MOA to Chief School Administrator and one (1) original copy of signed MOA to president of district board of education	Executive County Superintendent
<ul style="list-style-type: none">•Send a copy to each district principal and any district participant at annual revision meeting	Chief School Administrator

Questions?

Office of Student Support Services

EdLawMOA@doe.state.nj.us

609-292-5935

<http://www.state.nj.us/education/students/safety/behavior/law/moa>