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**MEMORANDUM OF UNDERSTANDING BETWEEN THE ALLEGHANY HIGHLANDS
PUBLIC SCHOOLS, COVINGTON DIVISION OF POLICE, AND ALLEGHANY
COUNTY/COVINGTON CITY SHERIFF'S OFFICE**

PURPOSE

The Alleghany Highlands Public Schools (AHPS), Covington Division of Police (DP), and Alleghany County/Covington City Sheriff's Office (SO) hereby enter into this Memorandum of Understanding (MOU) setting forth the respective roles and responsibilities of both parties regarding the use of school resource officers (SROs). The purpose of this MOU is to establish a mutually beneficial partnership (School-Law Enforcement Partnership (SLEP)) that both schools and law enforcement can work within to achieve shared goals. The purpose of the SLEP is to foster relations of mutual respect and understanding in order to build a positive and safe school environment and to facilitate effective, timely communication and coordination of efforts for both the AHPS and the DP/SO.

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

The parties agree the vast majority of student misconduct can be best addressed through classroom and in-school strategies. The parties acknowledge that students are generally less mature and responsible than adults; they often lack the 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.

For further details regarding the SLEP, please see the School and Law Enforcement Partnership Guide.

GOALS

The primary goals of the SLEP and this model MOU are to (i) promote positive and supportive school climates and (ii) create and maintain safe and secure school environments.

To promote positive and supportive school climates, the AHPS and DP/SO will collaborate to increase law-related education, expand school safety and crime prevention efforts, reduce conflict, and support effective interventions for students.

To create and maintain safe and secure school environments, the AHPS and DP/SO will collaborate to reduce and prevent crime, violence, victimization, and fear in and around schools, and minimize student involvement with the juvenile and criminal justice systems.

EVALUATION OF THE SCHOOL–LAW ENFORCEMENT PARTNERSHIP

The AHPS and the DP/SO should jointly develop measurable objectives of the SLEP using school discipline, crime, and violence data, school climate survey data, and any other data deemed to be relevant. The AHPS and the DP/SO will review progress toward achieving such objectives at least annually by AHPS, DP, and SO designees.

ROLES AND RESPONSIBILITIES

I. Police Department/Sheriff's Office Responsibilities

The DP/SO will designate a direct point of contact between the DP/SO and the AHPS. The DP/SO point of contact will address any operational and administrative issues and will serve as a consultant for school safety and security issues including assessments and critical incident response planning. The DP/SO point of contact will maintain a working knowledge of school rules, regulations, and laws regarding student safety and conduct. The DP/SO point of contact will establish and maintain effective relationships with school personnel at the division and school levels.

The DP/SO will be responsible for the selection, assignment, scheduling, training, supervision, and evaluation of school resource officers (SROs). In their performance of law enforcement functions, the SRO will remain at all times under the control, through the chain of command, of the DP/SO. The DP/SO will ensure the SRO meets the training standards for SROs established by the Virginia Department of Criminal Justice Services (DCJS) pursuant to *Virginia Code* §§ 9.1-101(54) and 9.1-114.1.

The DP/SO will take into consideration the views of the AHPS and the identified needs and conditions of the schools when (i) developing and implementing law enforcement policies and practices that may affect schools and (ii) selecting, assigning, scheduling, training, supervising, and evaluating SROs.

II. School Division Responsibilities

The AHPS will designate a primary division-level point of contact between the AHPS and the DP/SO. The AHPS point of contact will implement the SLEP and maintain ongoing communications with DP/SO officials.

School administrators will be responsible for facilitating effective communication between the SRO and school personnel and for supporting the goals of the SLEP.

Each school with an assigned SRO should provide work area(s) for the SRO that allow access to technologies, private interviewing of several persons, and follow respective department policy and procedure with evidence collection and handling.

The AHPS will handle discipline within the school disciplinary process without involving SROs. The AHPS policies, administrative guidance, training, and ongoing oversight should clearly communicate that school personnel are responsible for school discipline and that law

enforcement is not to be involved with disciplinary action, except as may be requested by the AHPS (e.g., if factual information gathered or observations by the SRO are relevant to a disciplinary matter). The AHPS is responsible for communicating the goals and role of the SRO to all school administration, personnel, and students.

The AHPS should ensure that school administrators meet the training requirements set forth in *Virginia Code § 22.1-279.8(E)*.

III. SRO Roles and Responsibilities

SROs should be considered active members of their assigned schools. The SRO facilitates the effective delivery of law enforcement services and assists with matters related to safety, security, and the exchange of information between the AHPS and the DP/SO.

Unless there is a clear and imminent threat to safety, requests from school personnel for SRO or other law enforcement assistance are to be made to a school administrator and such administrator should, if appropriate, request assistance from the SRO.

To the extent possible, SROs' duty schedules should be organized to provide coverage throughout the school day. SROs provide a visible deterrent to crime and shall be visible patrolling the exterior and interior grounds. SROs should wear the regulation uniform of the employing DP/SO and operate a marked DP/SO vehicle while on duty unless otherwise authorized by the SRO's supervisor.

Additionally, SROs should assist school administrators in developing school crisis, emergency management, and medical emergency response plans. SROs should work with school administrators in problem-solving to prevent crime and promote safety in the school environment. SROs are expected to collaborate with school administrators and other school personnel to support positive school climates that focus on resolving conflicts and minimizing student involvement with the juvenile and criminal justice systems.

SROs serve multiple roles in schools. The roles are interrelated but all are carried out with the aim to contribute to school safety and security and to promote positive and supportive school climates. The key roles of an SRO are:

Law enforcement officer

As a sworn law enforcement officer, the primary role of an SRO in a school is as a law enforcement officer. SROs assume primary responsibility for responding to requests for law enforcement assistance from school administrators and coordinating the response of other law enforcement resources to the school. SROs should work with school administrators in problem-solving to prevent crime and promote safety in the school environment. In all cases, the SRO's role as a law enforcement officer should take precedence over any other roles performed by the SRO.

Law-related educator

As resources permit, SROs should strive to assist with presentations to school personnel on law-related topics such as law enforcement practices, changes in relevant laws, crime trends, crime prevention, school safety strategies, and crisis response procedures. SROs may also deliver law-related education to students using lessons/curricula approved in advance by the AHPS.

Role model and informal mentor

Students often seek approval, direction, and guidance from adults in the school setting about

various problems. Through formal and informal interaction with students, SROs serve as role models and informal mentors. SROs are expected to communicate clearly to students about acceptable and unacceptable behavior, set a positive example in handling stressful situations and resolving conflicts, show respect and consideration of others, and express high expectations for student behavior. Students who may need additional assistance shall be referred to a school-based resource.

IV. School Administrator Roles and Responsibilities

Consistent with the Virginia Standards for Accrediting Public Schools in Virginia, 8 VAC 20-131-210(A), "the principal is recognized as the instructional leader and manager of the school and is responsible for fostering the success of all students by developing, advocating, and sustaining an academically rigorous, positive, and safe school climate for all stakeholders." Additionally, pursuant to 8 VAC 20-131-260(D), the school administration should ensure that the school has written procedures "to follow in emergencies such as fire, injury, illness, allergic reactions, and violent or threatening behavior" and "for responding to violent, disruptive, or illegal activities by students on school property or during a school sponsored activity."

School administrators should review the MOU annually with SROs and establish school-specific operational and communications procedures to support the goals of the SLEP.

OPERATIONAL PROCEDURES

I. Differentiating Disciplinary Misconduct from Criminal Offenses

School administrators and personnel are responsible for school discipline. Although SROs are expected to be familiar with the school division code of student conduct, the rules of individual schools, and their application in day-to-day practice, SROs should not be involved with the enforcement of school rules or disciplinary infractions that are not violations of law.

Consequences of student misconduct should be effective, developmentally appropriate, and fair. Interventions and school sanctions should help students learn from their mistakes and address root causes of misconduct. School administrators should consider alternatives to suspensions and expulsions and law enforcement officials should consider alternatives to involvement with the juvenile and criminal justice systems for student violations of law.

II. Information Sharing

The release and sharing of student records is governed by the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and its implementing regulations, 34 C.F.R. Part 99, and §§ 22.1-287 and 22.1-287.1 of the *Code of Virginia*.

When appropriate, and to the extent allowable by law, the AHPS should notify SROs of any special needs of a student involved in a school-based infraction that is not routine discipline in order to assist the SRO in recognizing and accommodating behaviors that may be manifestations of the student's disability.

Consent access. An SRO or other law enforcement officer may have access to a student's education records with written consent of the student's parent or legal guardian or of the student if the student is 18 years of age or older.

SRO access. For purposes of access to student records, SROs may be considered "school officials with a legitimate educational interest" in reviewing information from student education records covered by FERPA, and may be provided student information as needed to carry out their duties related to the school environment, provided such SROs perform a function or service for which the school would otherwise use employees (e.g., maintaining the physical safety and security of the school) and comply with the use and re-disclosure requirements set forth in 34 C.F.R. § 99.33. SROs may have access to (i) information on students in their assigned schools that include directory information and additional items needed to carry out their duties, such as class schedules, as approved by the school administrator, and (ii) directory information for all students in the school division (however, unless they are school officials with a legitimate educational interest, they will not have access to student addresses, telephone numbers or email addresses unless another exception applies, given § 21.1-287.1 of the *Code of Virginia*). While, as noted above, SROs are always under the control of the DP/SO in carrying out their law enforcement duties, the DP/SO agree that SROs will respect the confidentiality of student education records as other school officials would, and are under the control of the AHPS when it comes to the handling of student education records. DP/SOs understand that unless a FERPA exception applies that would permit disclosure to law enforcement by any school official (e.g., in the context of a health or safety emergency or in response to a subpoena), SROs will not share protected student record information with the DP/SO.

Health or Safety Emergency Exception. Pursuant to 34 C.F.R. § 99.36, in the event of an articulable and significant threat to the health or safety of a student or other individuals, school officials may disclose any information from student records to appropriate parties, including law enforcement officials, whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.

SRO disclosure of law enforcement records. SROs may disclose law enforcement records created and maintained by the SRO for the purpose of maintaining the physical security and safety of the school or the enforcement of laws. Because law enforcement records are not student records, they are not subject to the disclosure requirements of FERPA.

III. Investigation and Questioning

SROs have the authority to question students who may have information about criminal activity. As sworn law enforcement officers, SROs have authority to stop, question, interview, and take law enforcement action without prior authorization of the school administrator or contacting parents or legal guardians. However, 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.

The interviewing of students, whether as suspects, victims, or witnesses, should be conducted privately in an office setting. SROs shall take steps to ensure minimal intrusion into the educational experience of students being questioned in the school setting.

SROs are responsible for leading the investigation and questioning of students related to suspected violations of criminal law. SROs 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 code of conduct.

IV. Searches

All searches shall be conducted in accordance with federal and state laws and applicable AHPS and DP/SO policies and guidelines, including the principles embodied in this MOU.

School administrator searches. School personnel may conduct searches of a student's property and person under their jurisdiction in accordance with guidelines developed as contemplated by *Code of Virginia* § 22.1-279.7, and the advice of the school's legal counsel.

SRO searches. Any search initiated by an SRO or other law enforcement officer should be conducted in accordance with constitutional search and seizure requirements. All searches should occur outside the presence of students and school personnel, with the exception of school administrators, unless there is a clear and imminent threat to safety.

SROs should not become involved in administrative searches and at no time should SROs request that an administrative search be conducted for law enforcement purposes or have school personnel conduct a search as the SRO's agent.

V. Arrests

Whenever practical, the arrest of a student or school personnel should be accomplished outside of school hours in order 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 potential disruption. When circumstances do not allow for prior coordination through the school administrator, arrests should be reported to the school administrator as soon as possible. In addition to any required notification of parents and legal guardians by the SRO taking a student or employee into custody, school administrators or their designees should consider notifying parents and legal guardians upon a school-based arrest of the student.

VI. Physical Restraint by School Personnel

Physical restraint refers to restricting a student's ability to freely move his or her torso, arms, legs, or head. The term physical restraint does not include a physical escort, such as temporary touching of the arm or other body part for the purpose of inducing a student who is acting out to walk to a safe location.

Physical restraint by school personnel is used in accordance with Virginia Board of Education policies and guidelines on seclusion and restraint and related local school board policies. Every effort should be made by school personnel to prevent the need for the use of restraint. Physical restraint should not be used except by school personnel trained in the use of physical restraint as required by the school division.

School personnel should act to de-escalate situations that are causing, or have the potential to cause, disruptions to the school environment and/or are violations of the student code of conduct. If physical intervention is necessary, the action shall be reported promptly to the school administrator and the rationale for the action shall be fully documented.

VII. Physical Intervention by School Resource Officers

An SRO should not be involved in the physical restraint of a student unless there is a clear and imminent threat to safety. As sworn law enforcement officers, SROs may intervene to de-

escalate situations.

Physical intervention by SROs is undertaken in accordance with policies and operational procedures of the DP/SO and state law regarding physical intervention and use of force by a law enforcement officer. If an SRO is involved in the use of restraint or physical intervention, the action should be reported to the school administrator and the SRO's supervisor and the rationale for the action should be fully documented.

SROs should be aware of the Virginia Board of Education's policies and guidelines on seclusion and restraint and related local school board policies and may attend training offered by the local school system on their use of seclusion and restraint by school personnel. However, SROs should continue to operate by the policies and operational procedures of the DP/SO and state law regarding physical intervention and use of force by a law enforcement officer.

Additionally, if the SRO physically intervenes with a student, the AHPS and DP/SO should coordinate to ensure that reasonable effort is made to inform the parents or legal guardians of such student on the same day as the occurrence of the physical intervention.

VIII. Body Cameras

The body camera shall be placed on standby while the SRO is on school grounds or at a school-related activity, unless there is a legitimate law enforcement need for the SRO to activate the body camera.

All video recordings captured by the body camera shall be the property of the DP/SO, and the AHPS is not responsible for their storage, maintenance, release, or disposal. Video retention and destruction shall be in accordance with DP/SO policy and the records retention schedules published by the Library of Virginia.

The SRO's use of the body camera shall only be for performing official law enforcement duties and guided by DP/SO policy.

Upon the request of the building principal or the Superintendent or designee, the DP/SO may permit the building principal or the Superintendent or designee to view and obtain a copy of any video recording captured by the SRO while performing official law enforcement duties.

KEY STATUTORY RESPONSIBILITIES

I. Crime Reporting

Pursuant to *Virginia Code* § 22.1-279.3:1(B), law enforcement agencies are required, among other things, to notify the division superintendent and the principal or the principal's designee when a student in the principal's school commits (i) any offense that would be a felony if committed by an adult or (ii) any offense listed in *Virginia Code* § 22.1-279.3:1(A) that would be a misdemeanor if committed by an adult if such offense was committed on a school bus, on school property, or at a school-sponsored activity and whether the student is released to the custody of his parent or legal guardian or released on bond.

Pursuant to §§ 16.1-260(G) and 19.2-83.1(B), law enforcement agencies and/or intake officers are required to notify the division superintendent if a student is arrested for certain offenses or subject to a petition alleging that the student committed certain offenses. Division superintendents who receive such reports are required to report the information to the

principal of the school in which the student is enrolled.

As a general practice, SROs should notify the principal as soon as practical of any significant law enforcement events occurring at or in association with the school (e.g., at a school bus stop or off-campus activity, during or outside school hours).

Pursuant to *Virginia Code* § 22.1-279.3:1(D), certain types of criminal activity committed on a school bus, on school property, or at a school-sponsored activity that come to the attention of the principal or school personnel should be reported immediately to the DP/SO as specified in AHPS policy. No SRO or school administrator will be required to file delinquency charges in response to any such activity. Schools and SROs should be encouraged to deal with school-based offenses through graduated sanctions or educational programming before a delinquency charge is filed with the juvenile court.

II. Threat Assessment

Threat assessments will be conducted in accordance with local school board policies adopted as required by *Virginia Code* § 22.1-79.4 and, in general, consistent with model procedures and guidelines published by the DCJS Virginia Center for School and Campus Safety and other appropriate practices.

SROs may serve as members of threat assessment teams (including as school officials with a legitimate education interest, as defined by FERPA and as discussed above) and assist in the monitoring of subject students as well as determining the need, if any, for law enforcement action.

III. School Safety Audits

School safety audits will be conducted annually as required by *Virginia Code* § 22.1-279.8 to assess school safety conditions in schools. SROs, in collaboration with school administrators, will conduct school inspection walk-throughs using a standardized checklist developed by the Center for School and Campus Safety. SROs should collaborate in other school safety audit mandates set forth in *Virginia Code* § 22.1-279.8, including school crisis, emergency management, and medical emergency response planning and preparation.

REVIEW OF MOU

Effective July 1, 2020, per an amendment to *Virginia Code* § 22.1-280.2:3 "school boards and local law enforcement agencies shall review and amend or affirm memorandums of understanding at least once every two years, or at any time upon the request of either party". Further, "each school board shall ensure the current division memorandum of understanding is conspicuously published on the division website and provide notice and opportunity for public input and discussion during each memorandum of understanding review period."

Quarterly meetings should be conducted throughout the year between the AHPS point of contract and DP/SO point of contact to support successful implementation of the partnership. This MOU remains in force until such time as either party withdraws from the agreement by delivering a written notification of such withdrawal to the other party at least 45 days prior to the date of withdrawal.

Signed:



Superintendent

2/2/23

Date



Covington City Chief of Police

1/27/2023

Date



Sheriff Alleghany County/City of Covington

11/28/2022

Date