

individuals. The mere fact that the communication is in electronic form, rather than oral or written form is irrelevant. School personnel should be guided by the reporting obligations elsewhere in this agreement. School personnel should be mindful of the fact that forensic computer analysis of an individual computer or network can result in valuable evidence for an investigation. Therefore, when notification to law enforcement is appropriate, the entirety of the investigation should be conducted by law enforcement so as not to compromise the integrity of potential evidence.

Finally, computers and other forms of current and emerging technology may be used to facilitate other criminal activity. Financial information, identifying information and illicit images may all be contained on a suspect's computer. Therefore, it is vital that law enforcement be notified immediately when a school learns that a juvenile may be using a computer to violate the law. Similarly, cell phones, smart phones, tablets, PDAs and other electronic communication devices should be turned over to the police, not parents, when the school comes into possession of items which they suspect may contain evidence of criminal behavior. For any offense committed on media, reporting should be guided by Articles 3 and 4 in this agreement.

4.8.3. Blogging and Free Speech Issues

The creation of a "web-log" or "blog" is a current trend for many individuals using the Internet. A blog is personal space on the world-wide-web devoted to a particular topic. Often a single individual authors a blog, or as is becoming more common, access to the blog is 'open' and anyone may post an entry. Blogging is not limited to text, and information which can be stored electronically may be placed in a blog: music, photos and videos, for example, all can become part of a blog.

There are many free blog sites available for use by anyone with Internet access. Registration requirements are often loose and potentially ineffective. Blogs have become a public forum for many people, including students, to post a variety of personal information, including biographical information, opinion, media, and insulting or harassing speech.

Law enforcement officials, while vigilant in the pursuit of criminal activity, are often faced with the issue of "free speech" under the Federal and New Jersey Constitutions. Prosecution of individuals who harass or threaten specific groups or individuals is commonplace. However, law enforcement may be unable to prosecute those who merely publish an opinion or a photograph. School personnel as well as students often are the target of information contained in blogs.

4.8.4. Reporting of Blogging and Free Speech Issues

Accordingly, there is no obligation on the part of school personnel to report any blogging or free speech issues, unless the conduct rises to the level of mandatory report, as outlined in Article 3.

Law enforcement authorities have the ability to preserve evidence before the author has an opportunity to alter it. If such information is brought to the attention of law enforcement, a

legal determination will be made on whether the information contained in the blog is constitutionally protected and whether it is criminal in nature.

Article 5. Notice of Arrests

5.1. Arrests of Students on School Grounds

Whenever a student has been arrested on school grounds, the law enforcement officer or agency involved shall, as soon as practicable, notify the building principal. Whenever possible, such notice shall be given before the student has been taken off school grounds. Where the student is a juvenile, all information concerning the circumstances of the arrest shall be provided to the building principal on a confidential basis and in accordance with the provisions of *N.J.S.A. 2A:4A-60d(3)*. See Article 8.4 of this Agreement for a synopsis of those laws.

5.2. Arrests of Non-Students on School Grounds

Where a person other than an enrolled student is arrested on school grounds, the building principal shall be advised as to the circumstances of the offense and the identity of the offender, provided that where the person arrested is a juvenile, it is understood that the law enforcement agency or officer involved is not permitted to divulge any information that would violate the laws governing the disclosure of juvenile information. See Article 8.4 of this Agreement for a synopsis of those laws.

5.3. Arrests of Students off School Grounds During Operating School Hours

When a student is arrested off school grounds during operating school hours, or under circumstances that would lead the arresting officer to believe that a school official was responsible for the care and custody of the student at the time of the arrest, or where the arresting officer reasonably believes that the student was in transit between school and his home at the time of arrest, the arresting officer shall, as soon as practicable, notify the building principal of the school in which the student is enrolled. All information concerning the basis and circumstances of the arrest shall be provided to the building principal on a confidential basis and in accordance with the provisions of *N.J.S.A. 2A:4A-60*, as summarized in Article 8.4 of this Agreement.

5.4. Parental Notification

When the building principal is advised of a student's arrest, pursuant to the provisions of this Agreement, the principal or his or her designee will, as soon as practicable, and in accordance with *N.J.A.C. 6A:16-6.2(b)3* and 11 and the associated board of education policies and procedures regarding parental notification, contact a parent or guardian of the student. It is understood that the law enforcement agency making the arrest also is required to attempt to contact the student's parent or guardian pursuant to *N.J.S.A. 2A:4A-33*.

It is agreed that the (*school official*) shall at the request of the (*law enforcement agency*) and/or the County Prosecutor's Office provide information concerning the efforts by the principal or school staff to contact and notify the student's parent(s) or guardian.

Article 6. Arrest Protocols

For the purpose of this Agreement, the term "arrest" shall include the taking into custody of a juvenile for any offense which if committed by an adult would constitute a crime or disorderly persons offense.

6.1. Requests by School Officials

All requests by any school official to summon a law enforcement officer for the purpose of making an arrest on school grounds, pursuant to *N.J.A.C. 6A:16-6.2(b)2* and 9, whether for a suspected violation of the Comprehensive Drug Reform Act or for a suspected violation of any other criminal statute, should be directed to the (*designated police liaison or to the chief of the department having patrol jurisdiction*). Nothing herein shall be construed in any way to preclude or discourage any person from dialing "9-1-1" to report an emergency.

6.2. Minimizing Disruption of the Educational Process

It shall be the general policy of (*law enforcement agency*) when making any arrest on school grounds to minimize the disruption of the school environment to the greatest extent possible, consistent with the requirements of public safety. Accordingly, substantial weight shall be given by the law enforcement officer assigned to make the arrest to the specific recommendations of the building principal or local chief school administrator as to the time, place, and manner for effecting the arrest.

6.2.1. Arrests to be Conducted in Private

So as to minimize any disruption of the educational environment, every reasonable effort should be made to effect the arrest in the building principal's office, or in some other designated area away from the general student population.

6.2.2. Preferred Use of Plainclothes Officers to Effect Arrest

Where feasible, the responding law enforcement officer(s) should be in plainclothes, use unmarked police vehicle(s) and refrain from using a siren or flashing overhead lights. In addition, the number of responding officers should be kept to a minimum, consistent with the requirements of public safety.

6.2.3. Cooperation with Arrests on School Property

It is understood and agreed that school officials shall cooperate with law enforcement officials and shall not provide sanctuary from arrest to any person, and that school officials shall not interfere with or impede any law enforcement officer in the performance of his or her duties.

6.3. Other Spontaneous Arrests

6.3.1. Notice to Building Principal

In cases in which a law enforcement agency responds during operating school hours to a suspected offense reported by someone other than the building principal or local chief school administrator, or where a law enforcement officer observes the occurrence of an offense on school grounds during operating school hours which would justify a warrantless arrest, or where a person subject to arrest retreats onto school grounds during operating school hours, the arresting law enforcement officer shall notify the building principal as soon as it is practical to do so. Where the arrest involves a student enrolled in the school, the building principal shall, wherever feasible, be notified before the student is taken from school grounds.

6.3.2. Minimizing Disruption

When effecting any spontaneous arrest on school grounds during operating school hours, every reasonable precaution shall be taken to minimize the disruption of the school environment to the greatest extent possible, consistent with the requirements of public safety.

6.4. Planned Arrests

Whenever a planned arrest is to occur on school grounds, the building principal or local chief school administrator shall be advised and consulted before the arrest occurs.

Article 7. Law Enforcement Operations

7.1. Inquiries Regarding Law Enforcement Operations

All inquiries or complaints received by school personnel regarding interviews, investigations, arrests or other operations conducted by sworn law enforcement officers shall be directed to the appropriate law enforcement agency. This shall apply to inquiries from parents, guardians, the press or any other sources. A school official receiving such an inquiry or complaint shall also notify the appropriate law enforcement agency of the nature of the inquiry or complaint (*N.J.A.C. 6A:16-6.3*).

7.2. Interrogations and Interviews

No law enforcement officer shall direct, solicit, encourage, attend or otherwise participate in the questioning of any juvenile by school officials unless such questioning could be lawfully conducted by the law enforcement officer acting on his or her own authority in accordance with the rules and procedures governing law enforcement interrogations and interviews. All information obtained by school employees concerning the commission of an offense, whether obtained as a result of the questioning of a student or otherwise, shall be referred to the appropriate law enforcement agency, provided however, that nothing in this Agreement shall be construed to authorize or require a school employee to divulge information or records in violation of the confidentiality requirements of 42 C.F.R. Part 2, or any other applicable state or federal regulation, law or rule of evidence concerning confidential and privileged

communications. The procedures for and responsibilities of staff, with regard to interviews of students suspected of possessing or distributing a controlled dangerous substance, including anabolic steroids, drug paraphernalia or a firearm or other deadly weapon shall be in accordance with *N.J.A.C. 6A:16-6.1 et seq.* and the associated board policies and procedures. Notification of parents in instances of law enforcement interviews involving their children will be made by school staff in accordance with *N.J.A.C. 6A:16-6.2(b)* and the associated board policies and procedures. It is understood that law enforcement officials need not contact parents to interview a minor student when the student is not the target of an investigation. However, law enforcement officials must contact parents to interview a minor student when the student is a target of an investigation.

7.3. Undercover School Operations

Undercover school operations are designed to disrupt ongoing drug-distribution activities. These operations are difficult to implement and require extensive planning, cooperation, and secrecy. Attorney General Executive Directive 1988-1 imposes strict limitations on the use of this investigative tactic. The Attorney General Directive is designed to protect the educational environment of a school and to minimize the risk of injury to students and undercover officers. Rules and regulations promulgated by the State Board of Education and codified at *N.J.A.C. 6A:16-6.2(b)7* require local district boards of education to adopt and implement policies and procedures to ensure cooperation between school staff and law enforcement authorities in all matters relating to undercover school operations.

7.3.1. Requests to Conduct Operations

a. All requests by school officials to undertake an undercover school operation in a particular school or school district will be directed to the local chief of police or, where appropriate, to the Superintendent of State Police. However, it is understood that the ultimate approval of all undercover school operations can only be granted by (*designated school official*) and (*the county prosecutor*) or, where appropriate, the Attorney General or his or her designee. When the school official designated as the liaison for law enforcement is the person under investigation, school districts are encouraged to have a plan in place on who should report to law enforcement (e.g., the liaison's supervisor or the chief school administrator).

b. A request to undertake an undercover school operation will not be made public by either the requesting school official or the law enforcement agency receiving the request.

c. The county prosecutor or the Attorney General or his or her designee will make a good faith effort to comply with all reasonable requests to initiate an undercover operation, considering the scope and nature of the substance abuse or weapons-related problem in the school or district and the availability of law enforcement resources.

d. Where the county prosecutor or the Statewide Narcotics Task Force is for any reason unable to comply with a request to undertake an undercover school operation, the county prosecutor or the Attorney General or his or her designee will promptly notify the requesting school officials.

e. The decision to decline a request to undertake an undercover school operation shall not be made public by either the requesting school officials or the law enforcement agency receiving the request.

f. Nothing herein shall be construed to preclude law enforcement officials from initiating a request to conduct an undercover school operation pursuant to Section 2 of this Addendum.

7.3.2. Consultation and Cooperation

a. As a practical matter, a successful undercover school operation cannot take place without the assent and continuing cooperation of the building principal and local chief school administrator and, except as may be expressly provided herein, none shall be attempted without such assent and continuing cooperation. Accordingly, prior to the placement of any undercover officer in a school, the school building principal and the local chief school administrator will be consulted unless there are compelling reasons not to consult with either of these officials. Where the Attorney General determines that compelling reasons exist, an alternative school official or officials will be designated who will be consulted in lieu of the building principal or local chief school administrator prior to the placement of an undercover officer in a school and throughout the course of the operation.

b. In any case where the undercover school operation has not been requested by an appropriate school official, the law enforcement agency proposing the operation will advise the building principal and local chief school administrator of the nature of the proposed operation and will, to the greatest extent possible, explain the reasons why the operation is necessary and appropriate. This explanation should include a description of the extent and nature of the suspected drug trafficking or weapons-related activities occurring within the school environment that would justify the operation. It is understood and agreed that law enforcement officials will not be required or permitted to divulge any information received in confidence, whether from an informant or otherwise, or that would violate the laws or court rules governing the disclosure of juvenile offender information, grand jury information, or information derived from electronic surveillance.

c. It is understood and agreed that undercover school operations should not necessarily be limited to schools falling within any particular region or demographic setting e.g., rural, suburban, urban center, or any particular district factoring group (i.e., a composite measure of socioeconomic status within a geographic area). Rather, subject to the availability of resources, undercover school operations should be proposed and conducted in any district or school where the designated law enforcement and school officials determine that such operations would be beneficial.

d. Information provided by law enforcement to the building principal or local chief school administrator will be kept strictly confidential and will not be divulged by the building principal or local chief school administrator to any other person without the express approval of the county prosecutor or, where appropriate, the Attorney General or his or her designee.

e. No law enforcement officer will disclose the fact that an undercover school operation has been proposed, requested, or is being or has been considered with respect to any particular school or school district.

f. The building principal and the local chief school administrator will be afforded the opportunity to offer specific concerns regarding the conduct of any proposed undercover school operation, and will also be given the opportunity to make general or specific recommendations as to how to minimize the impact of the proposed operation on the educational environment, existing substance abuse counseling programs, and the relationship between school authorities, the law enforcement community, and the student population. In developing an undercover school operation plan, and throughout the course of the operation, the law enforcement agency conducting the operation will give due consideration to the concerns and recommendations offered by the building principal and local chief school administrator. Furthermore, these school officials will be advised whenever the law enforcement agency conducting the undercover school operation is for any reason unable or unwilling to follow any proposed recommendation. However, it is understood that the law enforcement agency responsible for conducting the undercover operation shall maintain control of the logistics of any operation once begun.

g. The law enforcement agency conducting the undercover school operation will provide to the building principal and local chief school administrator a detailed briefing concerning the logistical and record keeping requirements associated with successfully placing an officer undercover. The building principal and local chief school administrator may contact the designated liaison who will be available on a 24-hour basis to respond to any problems or inquiries.

7.3.3. Security; Limited Disclosure Agreements; Early Termination

a. The building principal and local chief school administrator will be informed as to the identity of any person assigned to an undercover investigation unless there are compelling reasons, as shall be determined by the Attorney General, not to inform either of these officials. The building principal and local chief school administrator, and any other school officials or employees who may be informed as to the identity of the undercover officer, will safeguard the identity of that officer and will not disclose the existence of a contemplated or ongoing undercover school operation to any person.

b. In the event that the building principal, local chief school administrator or any other school official or employee who may have been informed as to the existence of the operation subsequently learns of any information that suggests that the true identity of the undercover officer has been revealed, or that any person has questioned the identity or status of the undercover officer as a bona fide member of the school community, or that the integrity of the operation has been in any other way compromised, such information will be immediately communicated to the law enforcement agency conducting the operation or to the county prosecutor.

c. The school principal and local chief school administrator will be advised whenever an undercover school operation has been suspended or terminated or whenever the undercover officer is permanently removed from the school environment.

7.3.4. Use of Undercover Officers as School Employees

It is understood that no undercover school operation may be conducted that entails the placement of an undercover officer as a certified member of the school community without prior written approval of the Attorney General with notice given to the Commissioner of Education, or in the case of non-public schools, the chief school officer. It is understood that the Attorney General will base his approval upon a finding that 1) other law enforcement methods would not be effective, and 2) there is a reasonable articulable suspicion that adult school employees or other non-student member(s) of the school community are engaged in drug trafficking or unlawful weapons-related activities. In that event, and upon such findings, the underlying purpose of the operation would not be to identify or to apprehend student offenders, but rather to identify and to apprehend suspected adult or non-student offenders. Furthermore, the law enforcement agency involved will develop, in consultation with the building principal and local chief school administrator, those steps that will be taken to minimize the undercover officer's contact with, and impact upon, the student population. It is understood that no undercover officer will be permitted to teach a formal class of instruction without the approval of the Attorney General and local chief school administrator, and that in no event will an undercover officer posing as a non-student member of the school community be permitted to establish or to simulate any confidential, trust or counselor relationship with any student.

7.3.5. Limitations on Undercover Officer Conduct

a. *Code of Student Conduct Infractions.* It is understood that an undercover officer cannot be expected to pose as a model student. Nonetheless, no undercover officer will engage in any activities that unduly disrupt the educational environment, or that amount to code of student conduct infractions of such a nature and magnitude so as to prevent other students from enjoying the full benefits of that educational environment. An undercover officer will at all times respect the rights of teachers and other students.

b. *Confidentiality of Treatment Records.* Federal regulations and state policies concerning the confidentiality of treatment and substance abuse counseling program records and information will be strictly safeguarded. No law enforcement activity will be permitted in any way to interfere with, intrude upon, or compromise the integrity of any substance abuse counseling or treatment program.

c. *Entrapment.* No undercover officer will encourage or counsel any student to purchase or use alcohol or any controlled dangerous substance.

d. *Firearms Policy.* It is understood that undercover work concerning drug trafficking activities is inherently dangerous. Accordingly, it is understood and agreed that law enforcement will take all measures that are necessary and appropriate to protect the undercover officer, as well as to protect all students with whom the undercover officer may come in contact, and to avoid potentially violent confrontations whenever possible. In general, an undercover officer will not carry a firearm or otherwise bring onto, or maintain, a firearm on school grounds. An exemption from the general rule prohibiting the carrying or bringing onto school grounds of a firearm will only be granted with the express approval of the officer's immediate superior, unless otherwise specified in the plan approval process for good cause shown. Any firearm brought

onto school grounds will ordinarily be contained in a closed and fastened case locked in the trunk of an automobile operated by the undercover officer. It is assumed, moreover, that any exemption from the general weapons carrying policy agreed to herein will only be rarely sought, and approval to carry a firearm onto school grounds will only be granted where alternative means of providing adequate security or support are not feasible.

e. *Non-Participation in Treatment.* No undercover officer will in any way participate in or attend any drug or alcohol abuse treatment or counseling program. In the event that an undercover officer is referred to, or recommended to participate in, a counseling or treatment program by a teacher or school staff member, the undercover officer will report the circumstances of that referral or recommendation to his superiors and will decline such referral or recommendation.

f. *Preservation of Teacher Trust Relationships.* No undercover officer will engage in any activity or conversation that would require any teacher or school official to violate or compromise a trust relationship with any student.

g. *Romantic Involvement.* No undercover officer will encourage or participate in any romantic relationship with any student during the course of an undercover operation.

h. *Treatment.* No undercover officer will discourage any student from seeking drug or alcohol abuse treatment or counseling, or from reporting his or her own alcohol or substance abuse problem or dependency.

i. *Use and Distribution Prohibition.* No undercover officer will ingest or inhale (other than passive inhalation) any controlled dangerous substance; nor will any undercover officer be permitted to distribute or dispense any controlled dangerous substance without the express approval of the county prosecutor or, where appropriate, the Attorney General or his or her designee. Under no circumstances will an undercover officer sell or transfer a firearm on school grounds or to a student without the express prior approval of the county prosecutor, or, where appropriate, the Attorney General or his or her designee.

7.3.6. Post-Operation Report

It is understood that following the termination of every undercover school operation, the county prosecutor or the Assistant Attorney General in charge of the Statewide Narcotics Task Force will prepare a post-operation report that will be transmitted to the Attorney General. The report will discuss the results and impact of the operation and any logistical or policy problems which were encountered. The report will also include recommendations for improved procedures in dealing with potentially recurring problems. The county prosecutor or the Assistant Attorney General in charge of the Statewide Narcotics Task Force will solicit the comments and recommendations of the building principal and local chief school administrator, and these comments and recommendations will be included in the post-operation report. The contents of a post-operation report will be publicly disclosed, and a copy will be provided to the building principal, the local chief school administrator, the executive county superintendent and the Commissioner of Education.

7.3.7. Post-Operation Seminars

To maximize the deterrent impact of an undercover school operation, the law enforcement agency conducting the operation will make available officers to participate in seminars which, upon the invitation of appropriate school officials, may be held in the school in which the operation was conducted. The purpose of these seminars will be to discuss with teachers, parents and/or students the nature of the completed operation, the steps taken to minimize the intrusion into the educational environment, and to discuss the substance abuse or weapons-related problem from a law enforcement perspective. It is the agreed upon policy of the parties to the attached Agreement to promote the frank and open discussion of issues concerning the need for such operations, and to solicit opinions and recommendations from teachers, parents, students and members of the community-at-large.

7.4. Planned Surveillance

7.4.1. Live Streaming Video

Pursuant to *N.J.S.A. 18A:41-9*, if at least one school building of a school district is equipped with video surveillance equipment that is capable of streaming live video wirelessly to a remote location, the board of education and local law enforcement shall enter into a memorandum of understanding which provides the authorities with the capacity to activate the equipment and view the live streaming video.

The memorandum of understanding, at a minimum, shall include:

1. A list of designated persons, including contact information, position, rank, and supervisor's contact information, of those who are authorized to activate the equipment to view the live streaming video. The list may be executed as a confidential attachment to the memorandum of understanding.
2. Description of the circumstances under which the designated individuals could activate and view the live streaming video.
3. A detailed plan for preventing and detecting unauthorized access to live streaming video.

In the case of a school building that is located in a municipality in which there is no municipal police department, the board shall enter into a memorandum of understanding with an entity designated by the Superintendent of State Police.

In the event that the parties to the memorandum of understanding are unable to reach an agreement regarding any provision required [(1) – (3) above] , the County Prosecutor shall make the final determination regarding that provision.

Nothing in this section shall be construed as requiring installation of video surveillance equipment capable of streaming live video wirelessly to a remote site.

7.4.2. Notice and Consultation

In the absence of compelling or exigent circumstances, as shall be determined by the county prosecutor or the Attorney General or his or her designee, no planned narcotics surveillance operation as defined in this Agreement will be conducted during operating school hours without first consulting with the building principal or local chief school administrator of the school involved.

7.4.3. Limitations; Targeted Subjects

Nothing in this Agreement shall be construed to prevent any law enforcement officer from making any observations from any place or property not owned or used by a school or school board, except that a planned narcotics surveillance or any other form of observation should, wherever possible, be limited to observing 1) those specific individuals or groups of individuals who are believed to be involved in drug trafficking or weapons-related activities, or 2) those specific areas or places on school grounds, where drug use or trafficking or weapons-related activity is believed to occur frequently.

7.5. School Searches

7.5.1. Searches Conducted Independently by School Officials

No law enforcement officer shall direct, solicit, encourage or otherwise actively participate in any specific search conducted by a school official unless such search could be lawfully conducted by the law enforcement officer acting on his or her own authority in accordance with the rules and procedures governing law enforcement searches. Nothing in this Agreement shall be construed to preclude a law enforcement officer from taking custody of any item or substance seized by any school employee, pursuant to *N.J.A.C. 6A:16-6.2(b)5iv*.

7.5.2. Notice to Law Enforcement of Seizure of Contraband

School officials shall immediately notify law enforcement officers whenever a school employee comes into possession, whether as a result of a search or otherwise, of any substance or item believed to be a controlled dangerous substance, drug paraphernalia, firearm, or non-firearm weapon used or threatened to be used in committing an offense.

7.5.3. Law Enforcement Assumption of Responsibility

School officials shall permit law enforcement officers upon their arrival to the scene to assume responsibility for conducting any search, in which event the standards governing searches conducted by law enforcement officers shall prospectively apply.

7.5.4. Legal Questions during Conduct of Law Enforcement Search

Any questions by school officials concerning the legality of any contemplated or ongoing arrest, search or seizure conducted by a law enforcement officer on school grounds should be directed to the (*appropriate county prosecutor*), pursuant to *N.J.A.C. 6A:16-6.2(b)5ii*, or in the case of an arrest, search or seizure undertaken by a member of the State Police, Division of Criminal Justice, or federal law enforcement officer to the Director of Criminal Justice.

7.5.5. Agreement Does Not Constitute a Request to Conduct Searches

Nothing in this Agreement shall be construed in any way to require any school official to actively participate in any search or seizure conducted or supervised by a law enforcement officer; nor shall this Agreement be construed to direct, solicit or encourage any school official to conduct any search or seizure on behalf of law enforcement, or for the sole purpose of ultimately turning evidence of a crime over to a law enforcement agency. Rather, it is understood that any search or seizure conducted by school officials shall be based on the school officials' independent authority to conduct reasonable investigations as provided in New Jersey v. T.L.O and, pursuant to *N.J.A.C. 6A:16-6.2(b)5*.

7.5.6. Search and Seizure Legal Advice to School Officials

Any question by a school official concerning the law governing searches conducted by school officials may be addressed to the (*county prosecutor or his or her designee*).

7.5.7. Requests to Use Drug-Detection Canines

It is understood and agreed that all inspections of lockers, desks, or other objects or personal property on school grounds involving the use of law enforcement drug-detection canines shall be conducted in accordance with the policies and procedures established in the *New Jersey School Search Policy Manual*; shall comply with the "Special Rules and Procedures Governing the Use of Law Enforcement Canines to Conduct Suspicionless Examinations" set forth in Chapter 4.5 F of that manual; and shall conform to *N.J.A.C. 6A:16-6.2(b)5vi*. No such operation shall be undertaken without the express permission of the county prosecutor or the Director of the Division of Criminal Justice or his or her designee in the New Jersey Department of Law and Public Safety. It is further understood and agreed that the (*designated school official*) shall not invite or approve the use of a privately-owned drug-detection canine without first providing notice of the intention to use any such private service to the (*law enforcement agency*) and the county prosecutor, and it is further understood and agreed that if any such private drug-detection canine alerts to the presence of a controlled dangerous substance, any substance, paraphernalia, or other evidence of an offense seized by any person pursuant to such alert shall be turned over to (*law enforcement agency*) or the County Prosecutor's Office in accordance with the provisions of Articles 3.2 and 3.4 of this Agreement.

7.6. Routine Patrols

7.6.1. Visible Enforcement Plans

The (*police department*) shall maintain at appropriate times a visible police presence within all drug-free school zones, and shall file and periodically update a confidential report with the (*prosecutor*) detailing how these zones are to be patrolled.

7.6.2. Notice to School Officials

Where a patrol plan requires an officer periodically to enter onto school grounds, the (*police department*) shall advise the appropriate (*school building principal and local chief school administrator*). It is understood and agreed that any portion of a patrol plan disclosed to school officials in accordance with this subsection shall be kept strictly confidential.

7.6.3. On-Site Reporting

Except when responding to an emergency, no on-duty police officer will enter any school building without first complying with the procedures established by the school for the reporting of visitors. It shall be the responsibility of each police department or agency with patrol responsibilities to make certain that all officers are familiar and comply with the reporting policies established by each school within the law enforcement agency's jurisdiction.

7.7. Police Presence at Extra-Curricular Events

It is our agreed upon policy that (*police department with patrol responsibilities*), working in conjunction with appropriate school officials, should, whenever possible, provide for the presence of uniformed police officer(s) at any event at which the chief school administrator believes it would be in the interest of public safety. In the absence of compelling reasons as may be determined by the (*county prosecutor or chief executive officer of the law enforcement agency having patrol jurisdiction*) it is understood and agreed that uniformed police officers shall not be assigned to school functions, and especially those functions occurring within school buildings, except with the approval of the building principal or local chief school administrator. All requests by school officials for law enforcement agencies to provide for a uniformed presence at any school event should be made in accordance with *N.J.A.C. 6A:16-6.2(b)10* and directed to (*local police or liaison, local chief executive officer of the law enforcement department or agency having patrol jurisdiction*).

7.8. Truancy; Assistance Provided to Attendance Officers

The sheriff and his officers and all police officers and constables are required to assist school attendance officers in the performance of their duties (*N.J.S.A. 18A:38-30*). Assistance shall, when practicable, include accompanying attendance officers to the homes of students in circumstances where attendance officers may have concerns for their safety. However, attendance officers are not law enforcement officers and law enforcement officers should not provide assistance of a type that would not be available to other civilian investigators. For example, law enforcement officers should not use law enforcement computer systems to run

motor vehicle checks or criminal background checks for attendance officers. Law enforcement officers should also keep in mind that when accompanying an attendance officer to a home, they have no additional authority to demand entry to the home if the occupants do not consent and there is no emergency that would justify entry into the home.

7.9. Dispute Resolution Procedures

It is understood and agreed that any dispute or objection to any proposed or ongoing law enforcement operation or activity on school grounds will be consistent with *N.J.A.C. 6A:16-6.2(b)15*, and shall be directed by the appropriate school official to the chief executive officer of the law enforcement agency involved. Where the chief executive officer of the agency is for any reason unable to satisfactorily resolve the dispute or objection, the matter shall be referred to the (*county prosecutor*), who is hereby authorized to work in conjunction with the (*executive county superintendent of schools*) and, where appropriate, the Division of Criminal Justice, to take appropriate steps to resolve the matter. Any dispute that cannot be resolved at the county level shall be resolved by the Attorney General whose decision shall be binding.

<h3>Article 8. Confidentiality and School Access to Law Enforcement Information</h3>

8.1. Substance Abuse Confidentiality Laws

The New Jersey Legislature on January 12, 1998 adopted P.L. 1997, c. 362, in accordance with the Governor's conditional veto recommendations. The law, codified at *N.J.S.A. 18A:40A-7.1 et seq.*, and the supportive regulations at *N.J.A.C. 6A:16-3.2(a)2* and 6.5, afford confidentiality protections to a public or private secondary school pupil who is participating in a school-based drug or alcohol abuse counseling program where that pupil provides information during the course of the counseling session that indicates that the pupil's parent or guardian or other person residing in the pupil's household is dependent upon or illegally using a controlled dangerous substance. The New Jersey confidentiality statute is broader than the federal confidentiality statute and regulations (42 C.F.R. Part 2) in that it applies to any student who is participating in a school-based alcohol or drug abuse counseling program, even if the student is not personally abusing substances, but rather is seeking counseling to deal with the problems related to the substance abuse of another. The federal law, in contrast, only provides confidentiality protections to persons who are "patients," that is, persons who are receiving counseling for their own substance abuse problem. The state confidentiality law nonetheless features an important exception to the general rule of preserving confidentiality. Specifically, the State law is expressly subject to the provisions of *N.J.S.A. 9:6-8.10*, and thus does not prevent school officials from disclosing information to Child Protection and Permanency (CP&P) or to a law enforcement agency "if the information would cause a person to reasonably suspect that the secondary school pupil or another child may be an abused or neglected child." Accordingly, it is understood and agreed that the confidentiality statute in no way relieves the duty established pursuant to *N.J.S.A. 9:6-8.10*, which requires any citizen, including school district employees, volunteers or interns, to inform both CP&P and a law

enforcement agency immediately when there is reasonable cause to believe that a child is or has been abused or neglected.

8.2. Clarification Regarding Confidentiality of Contents of Student Records

It is understood and agreed that federal and state laws pertaining to the confidentiality of student records, pursuant to 42 C.F.R. Part 2, *N.J.S.A.* 18A:40A-7.1 and 7.2 and *N.J.A.C.* 6A:32-7, only prohibit the disclosure of the contents of such records; these laws do not extend to other sources of information concerning the same events or transactions that happen to be memorialized in the student records. Thus, for example, a teacher, counselor, administrator, or other school staff member who is a witness to criminal activity may be required to testify in a court or grand jury or may be required to report information to law enforcement authorities pursuant to this Agreement based upon personal knowledge and memory notwithstanding that the criminal activity reported or testified about has been recorded in a student record that is subject to state or federal confidentiality laws. In other words, the act by a school official of memorializing an incident, event, or observation in a student record in no way precludes that school official or any other material witness from reporting or testifying from personal knowledge as to the documented incident, event, or observation, provided, however, that nothing in this Agreement must be construed to authorize or require a school employee to divulge information or records in violation of the confidentiality requirements of 42 C.F.R. Part 2, or any other applicable state or federal regulation, law or rule of evidence concerning confidential and privileged communications. Furthermore, the records of a designated "law enforcement unit" do not constitute student records (20 U.S.C. 1232g(a)(4)(ii)).

8.3. Records of Law Enforcement Units

Records of a "law enforcement unit" designated pursuant to Article 2.4 of this Agreement do not constitute student records. This comports with the requirements of the Family Educational Rights and Privacy Act (FERPA), which was amended in 1992 to exempt such records from the definition of "education records" (20 U.S.C. 1232g(a)(4)(ii)). Law enforcement records are records, files, documents and other materials created by a law enforcement unit for a law enforcement purpose and maintained by the law enforcement unit (34 C.F.R. 99.8(b)(1)). In the preamble to the FERPA regulations published in the Federal Register on January 17, 1995, the United States Department of Education stated: "...where a law enforcement unit also performs non-law enforcement functions, the records created and maintained by that unit are considered law enforcement unit records, even when those records were created for dual purposes (e.g., for both law enforcement and student conduct purposes). Only records that were created and maintained by the unit exclusively for a non-law enforcement purpose will not be considered records of a law enforcement unit" (60 F.R. 3467). When one or more law enforcement units have been established by the school district, the school district agrees to disclose to the appropriate law enforcement agency, or the Department of Children and Families, as appropriate, any records, files, documents and other materials of the law enforcement unit pertaining to the investigation of a violation of the law. The disclosure of these records to a law enforcement agency does not prohibit the use of these records for educational purposes, such as violations of the code of student conduct.

8.4. Statutory Authority to Disclose Information

New Jersey's juvenile confidentiality laws were amended by P.L. 1994, c. 56 to make it easier for law enforcement agencies to share information with schools. The revised law provides for three categories of disclosure to schools as follows: (1) permissive disclosure during an investigation (*N.J.S.A. 2A:4A-60e*); (2) disclosure following a charge at the principal's request (*N.J.S.A. 2A:4A-60c(3)*); and (3) required disclosure following a charge in certain circumstances (*N.J.S.A. 2A:4A-60d*). In addition, a law enforcement agency is authorized to disclose certain information to the victim of an offense committed by a juvenile. Pursuant to *N.J.A.C. 6A:16-5.4*, the board of education confirms its obligation to adopt and implement policies and procedures protecting the access to information related to juvenile justice proceedings, according to the requirements of *N.J.S.A. 2A:4A-60*.

The revised law permits law enforcement or prosecuting agencies to disclose information regarding juveniles who are under investigation when that information may be useful in maintaining order, safety, or discipline in the school or in planning programs relevant to the juvenile's educational and social development. This information may then be shared by the principal with appropriate school staff, provided, however, that where the information relates only to an investigation, and where no formal charges have been filed against the student, the statute prohibits this pre-charge information from being maintained by school officials. Accordingly, this information should be provided orally by law enforcement officers, rather than in writing, so as to avoid inadvertent retention or disclosure of such information.

The revised law further contains a provision that authorizes a principal to request information concerning juvenile delinquency charges that have been filed against a student enrolled in the school. These requests may either be made on a case-by-case basis or in accordance with procedures that could be agreed to as part of this Agreement.

[Optional: Pursuant to Article 5.2 of this Agreement, the (law enforcement agency) hereby agrees automatically to disclose to the principal this information regarding any juvenile delinquency charge filed against any student enrolled in the school.⁴]

Law enforcement and prosecuting agencies are *required* to advise the principal of the school where the student is enrolled when:

- the offense occurred on school grounds or was committed against an employee or official of the school;
- the juvenile was taken into custody as a result of information or evidence provided by school officials, whether or not on school grounds;
- the offense, if committed by an adult, would constitute a crime, and the offense:
 - resulted in death or serious bodily injury, or involved an attempt or conspiracy to cause death or serious bodily injury;
 - involved the unlawful use or possession of a firearm or other weapon;

⁴*This provision is optional. The parties to the Agreement may delete this sentence or may modify it to limit the "blanket" request to specified delinquency charges.*

- involved the unlawful manufacture, distribution, or possession with intent to distribute a controlled dangerous substance or controlled substance analog;
 - was committed by a juvenile who acted with a purpose to intimidate an individual or group of individuals because of race, color, religion, sexual orientation, or ethnicity; or
 - constitutes a crime of the first, second, or third degree.
- N.J.S.A. 2A:4A-60d

8.5. Agreement to Disclose Information Following a Charge

Where a juvenile has been charged with an act of delinquency that if committed by an adult would constitute a crime or offense, it is requested and agreed, pursuant to the authority of *N.J.S.A. 2A:4A-60c(1) and (3)* that the (*law enforcement agency*) or County Prosecutor's Office shall promptly provide information as to the identity of the juvenile, the offense charged, the adjudication and the disposition to (1) the principal of any school that is the victim of the offense; (2) the principal of any school that employs the victim of the offense; and (3) the principal of any school where the juvenile is enrolled.

8.6. Agreement to Disclose Information during an Investigation

Pursuant to the authority of *N.J.S.A. 2A:4A-60e*, the (*law enforcement agency*) and/or the County Prosecutor's Office agree(s) to notify verbally the principal of the school at which the juvenile is enrolled where the juvenile is under investigation or has been taken into custody but has not been formally charged with the commission of any act that would constitute an offense if committed by an adult, provided that the (*law enforcement agency*) or the County Prosecutor's Office determines that the information may be useful in maintaining order, safety, or discipline in the school or in planning programs relevant to the juvenile's educational and social development, and further provided that the sharing of information will not interfere with or jeopardize an ongoing investigation or prosecution of any person. It is understood and agreed that the information provided pursuant to this paragraph shall be provided orally rather than in writing, will be kept confidential, shall not be maintained by the school as part of the juvenile's student records, and shall be used only in accordance with the provisions of *N.J.S.A. 2A:4A-60e* to maintain order, safety, or discipline in the school or in planning programs relevant to the juvenile's educational and social development. Nothing herein shall be construed to preclude school officials from using such information in a suspension, expulsion, or other school conduct proceeding, pursuant to *N.J.A.C. 6A:16-7.1*, whether occurring on or away from school grounds, pursuant to *N.J.A.C. 6A:16-7.5*.

8.7. Specificity of Disclosed Information

It is understood and agreed that where the (*law enforcement agency*) and/or County Prosecutor's Office is authorized, pursuant to law and the provisions of this Agreement to disclose information concerning charged or suspected acts of delinquency, the law enforcement agency may provide the principal with specific information concerning the offense or investigation, as appropriate, that may be useful in maintaining order, safety, or discipline in the school or in planning programs relevant to the juvenile's educational and social development.

Such information may include but need not be limited to: (1) the specific type of drug found as determined by field tests and/or laboratory analysis; (2) the amount, purity, and value of the drug found; (3) how the drug was packaged; (4) whether cash was found or whether there were indications that the drug was intended to be sold or distributed; (5) where precisely the drug or other contraband was found; (6) what type of weapon was found; (7) whether a seized firearm was operable or loaded; or 8) whether the suspected offense involved or was directed at another enrolled student. It is understood and agreed that it is especially important for law enforcement agencies to promptly share information as may be authorized by law concerning the identity of a victim who is enrolled at the same school as the juvenile charged with or suspected of committing the offense so that school officials can take appropriate steps to protect the victim from further attack, to enforce a restraining order or condition of probation or pre-trial release that the juvenile have no contact with the victim, or to prevent retaliation or an escalation of violence.

8.8. Disclosure of Adult Student Information

Where a student who has been arrested or is under investigation is 18 years old or older, or otherwise is being treated as an adult by the criminal justice system, the (*law enforcement agency*) and/or the County Prosecutor's Office agrees to provide to the principal of the school at which the student is enrolled all information that would otherwise be provided pursuant to the provisions of Article 8 of this Agreement.

8.9. Law Enforcement Testimony at School Student Conduct Hearings; Required Notice to the County Prosecutor

The (*law enforcement agency*) agrees, upon the request of (*school official*), to make available officer(s) to testify as appropriate in any suspension or expulsion hearing before the board of education, pursuant to *N.J.S.A. 18A:37.1 et seq.* and *N.J.A.C. 6A:16-7.1 et seq.*, or other appropriate school authority as may be necessary to satisfy the due process rights of a student subject to school discipline, provided, however, that it is understood and agreed that any information provided by means of such testimony shall not be made public but rather shall be kept confidential in accordance with the requirements of *N.J.S.A. 2A:4A-60*, and further provided that the County Prosecutor's Office shall be given prior notification and a right to preclude the giving of such testimony where the testimony may interfere with or jeopardize any ongoing investigation or prosecution of any person.

8.10. Parallel School Student Conduct Proceedings

It is understood and agreed that school officials have an independent right and responsibility to initiate and pursue student conduct proceedings, pursuant to *N.J.S.A. 18A:37.1 et seq.* and *N.J.A.C. 6A:16-7.1 et seq.*, or to remove a student from school under certain circumstances including, but not limited to, those specified in the "Zero Tolerance for Guns Act," *N.J.S.A. 18A:37-7 through 12* and *N.J.A.C. 6A:16-5.5, 5.6, 5.7* and *N.J.A.C. 6A:7*. It is further understood and agreed that all school-based student conduct proceedings are separate and distinct from any juvenile or adult criminal prosecution; that law enforcement agencies shall not require or request school officials to undertake a student conduct action against a student; and

that the imposition of sanctions by both schools and by the juvenile justice system based upon a single infraction or event in no way constitutes "double jeopardy."

8.11. Notification of Arrests or Charges Filed Against School Personnel

The parties acknowledge that procedures already are in place that require prosecutors to provide notifications of indictments or convictions of public employees to the Division of Criminal Justice, which are then transmitted to the appropriate public agency. However, no notifications are required during the period between the filing of a complaint and an indictment, creating a period of time during which school administrators may be unaware of charges pending against school personnel, which may have an impact on their fitness for carrying out official duties. Therefore, it is agreed that whenever a law enforcement agency files a complaint or summons for one of the offenses listed in Article 8.11.3 below against a person that they know to be employed by a school district, or who works as a school bus driver or other outside employee in a school district, the law enforcement agency shall provide notice and a copy of the complaint to the school district no later than the next business day.

8.11.1. Applicability Not Limited to Local Jurisdiction

The requirement to notify a school district of such complaints is not limited to the school district in which the law enforcement agency is located. Notice shall be given to any school district or nonpublic school within the state of New Jersey where the accused is employed.

8.11.2. Employment Information

This requirement does not create an obligation to investigate or verify the employment of every person arrested or charged with an offense. It is intended only to require the notification in circumstances where the accused admits to employment in a school district or nonpublic school, or such information is otherwise available to the law enforcement agency.

8.11.3. Offenses Requiring Notification

Notification is required for all indictable offenses, all driving while intoxicated (DWI) offenses and any disorderly persons offenses or petty disorderly persons offenses.

8.11.4. Notification of Emergencies

Whenever local law enforcement is aware of an emergency affecting the safety of children during school hours, the Chief of Police or Station Commander or designee shall notify the principal of the school affected as soon as practicable. Law enforcement will provide all appropriate non-confidential information so that the principal can take necessary steps for the protection of students, staff and notification to parents. The Chief of Police or Station Commander shall attempt to provide, as practicable, the school principal and executive county superintendent, or his or her designee, with updated information throughout the duration of the emergency, and will provide notification when the emergency is over.

8.12. Notification to Executive County Superintendent

The Chief of Police or Station Commander will, at his or her discretion, notify the executive county superintendent of schools, or his or her designee. This notification will contain a recommendation on which additional schools should be notified by the executive county superintendent's office. The executive county superintendent shall decide which, if any, additional schools to notify, and shall make the appropriate notifications.

Article 9. School Safety and Security

9.1. Development of School Safety and Security Plans (SSSPs)

Recent tragic events in the nation's schools highlight the need for developing and maintaining up-to-date school-based safety and security plans for responding to crisis situations involving all-hazards, such as natural, technological, manmade, and biological, and student culture and climate. The district's school safety and security plans (SSSPs) should include protocols and procedures for quickly communicating to staff, students, parents, and emergency responders that a crisis situation exists. In addition, procedures for minimizing the risk of physical harm to students and staff should be initiated to reduce their exposure to any hazards. Just as it is necessary to establish protocols for responding to emergencies that require prompt and orderly actions, such as fires (see *N.J.S.A. 18A:41-1*), so too it is required to conduct monthly security drills, such as non-fire evacuations, bomb threats, lockdown, and active shooter (see *N.J.S.A. 18A:41-6*), to exercise plans that test the procedures and minimize exposure to hazardous situations, both from within and outside school facilities.

School officials shall consult with law enforcement officials, as appropriate, in planning the required school safety and security in-service training program for school staff, pursuant to *N.J.A.C. 6A:16-5.1(d)*. Examples of school safety and security training that could involve law enforcement officials include providing guidance on the approved model policies of the Governor's K-12 School Security Task Force; reviewing scenarios for school safety and security drills; addressing internet safety, cyber-bullying and gangs; and reviewing the ten key findings reported by the United States Secret Service in the publication titled *Threat Assessment in Schools: A Guide to Managing Threatening Situations and to Creating Safe School Climates*. Law enforcement officials shall identify school safety and security issues and concerns and advise the county prosecutor and chief school administrator, as appropriate.

It is understood and agreed that, pursuant to *N.J.A.C. 6A:16-5.1(b)*, the conferees, including the chief of police and other representatives of law enforcement agencies, emergency management planners, fire officials, local chief school administrator, all school building principals, representatives of health and social services provider agencies and other school staff (e.g., counselors, psychologists, social workers, nurses, security, maintenance, facilities, grounds, school resource officers, food services) and community resources, as appropriate, shall provide consultation to school officials, at a minimum annually, in the development of the school district's plans, procedures and mechanisms for school safety and security to fulfill the requirements of *N.J.A.C. 6A:16-5*, School Safety and Security. There is nothing in the Agreement or New Jersey Administrative Code that precludes students from contributing to the

school safety and security planning in a manner prescribed by the school district that would not divulge confidential information.

It is further understood and agreed that law enforcement officials shall review and, where necessary, provide written comments to the chief school administrator concerning the required SSSPs, pursuant to *N.J.A.C. 6A:16-5.1*. It is understood and agreed that the chief school administrator shall annually submit a copy of the school district's SSSPs and promptly submit any important revisions to the plan or school grounds to law enforcement officials. The chief school administrator agrees to supply law enforcement officials with current copies of blueprints and maps of all schools and school grounds. If at any time there are changes to the blueprints or maps of any school or school grounds, the chief school administrator shall forward revised copies to law enforcement officials as soon as practicable. It also is understood and agreed that, pursuant to Article 7.1 the conferees shall discuss the feasibility and desirability of implementing a Safe Schools Resource Officer program.

9.1.1. Critical Incident Planning

The parties to this Agreement understand that it is important for school officials and local police departments and county prosecutors to work together to adopt and implement policies for dealing with disruptive and potentially catastrophic crisis situations for all hazards, recognizing that it is essential to consider the most appropriate response to these kinds of situations before a crisis develops. The comprehensive SSSPs, procedures and mechanisms established by school officials, pursuant to *N.J.A.C. 6A:16-5.1* and Article 2.2 of this Agreement, shall be developed in consultation with law enforcement agencies, emergency management planners, health and social services provider agencies and school and other community resources, as appropriate. Pursuant to *N.J.A.C. 6A:16-5.1(b)*, the plans, procedures and mechanisms shall be consistent with the provisions of *N.J.A.C. 6A:16-5.1* and the format and content established by the Domestic Security Preparedness Task Force, pursuant to *N.J.S.A. App. A:9-64 et seq.*, and the Commissioner of Education (e.g., the Department of Education confidential publication titled *School Safety and Security Manual: Best Practices Guidelines*), and shall be reviewed annually and updated, as appropriate.

Additionally, procedures for school lockdown, active shooter, emergency evacuation, bomb threat, risk and violence assessments, and public information sharing shall be based on the standard operating procedures (SOPs) developed by the School Security Task Force and issued by the Attorney General. The model SOPs follow other nationally-recognized standards.

9.1.2. Consultation in Development of SSSPs

It is understood and agreed that, pursuant to Article 9 and *N.J.A.C. 6A:16-5.1(b)*, the chief school administrator shall consult with law enforcement agencies, health and social services provider agencies, emergency management planners, and school and other community resources, as appropriate in the development and maintenance of the school district's plans, procedures and mechanisms for school safety and security to fulfill the requirements of *N.J.A.C. 6A:16-5*, School Safety and Security.

9.1.3. Format and Contents of SSSPs

The SSSPs, procedures and mechanisms shall be consistent with the provisions of *N.J.A.C. 6A:16-5.1*. The parties agree that all SSSPs shall include defined communication and decision-making protocols (e.g., Incident Command System) and the minimum requirements for the format and contents of the plans, as determined by the Commissioner of Education and the Domestic Security Preparedness Task Force.

9.1.4. Annual Review of SSSPs

The chief school administrator shall consult with law enforcement agencies, health and social service provider agencies, emergency management planners and school and other community resources, as appropriate, in the review and updating of the school district's SSSPs, procedures and mechanisms, pursuant to *N.J.A.C. 6A:16-5.1*. It is understood and agreed that law enforcement officials shall, at a minimum, annually review and, where necessary, provide written comments to the chief school administrator concerning the required SSSPs, pursuant to *N.J.A.C. 6A:16-5.1*. It is understood and agreed that the chief school administrator shall, at a minimum, annually submit a copy of the school district's SSSPs or any important revisions to the plans to law enforcement officials. The chief school administrator agrees to supply law enforcement officials with current copies of blueprints and maps of all schools and school grounds. If at any time there are changes to the blueprints or maps, the chief school administrator agrees to forward revised copies to law enforcement officials as soon as practicable.

9.1.5. School Staff In-service Training on SSSPs

District board of education employees must participate in an annual in-service training on school safety and security to enable them to recognize and appropriately respond to safety and security concerns, including emergencies and crises, consistent with the school district's plans, procedures and mechanisms for school safety and security and the provisions of *N.J.A.C. 6A:16-5* and *N.J.S.A. 18A:41*. School officials shall annually consult with law enforcement personnel regarding training. The instruction must include school security drills, and be conducted collaboratively by the school district and law enforcement, fire and emergency medical services personnel in order to identify weaknesses in school safety and security policies and procedures and increase the effectiveness of emergency responders. The training shall utilize various formats such as drills, functional exercises, and tabletop exercises. Joint training exercises may include, but are not limited to, natural disasters, bomb threats, lockdown procedures and active shooters. A law enforcement officer must be present at a minimum of one school security drill in each school year in order to make recommendations on any improvements or changes to school security drill procedures, pursuant to *N.J.S.A. 18A:41-1*.

9.1.6. Other Training on SSSPs

It is recommended that school districts train students on school safety procedures **prior** to a drill or lockdown, taking into consideration students' developmental levels, disabilities, ability to understand the English language and any additional awareness or capacity issues.

Additionally, it is further recommended that substitute teachers, college students fulfilling practicum or other student teaching requirements, and any person with regular student contact, including volunteers and contractors, be trained on the non-confidential elements of the SSSPs.

9.2. Implementation of Approved School Security Task Force Recommendations

The parties agree to work together to implement the approved recommendations of the Governor's K-12 School Security Task Force. The parties recognize that joint planning, training and consultation are needed to effectively implement these recommendations. Any Executive Orders or Directives that are issued as a result of these approved recommendations are hereby incorporated into this Agreement.

9.2.1. Sharing of Model School Security Policies (MSSP)

The Model School Security Policies for law enforcement agencies issued pursuant to the Attorney General's Law Enforcement Directive No. 2007-1 on the topics of bomb threats, active shooter response, school lockdowns, school evacuations and public information policies shall serve as templates for the development of local law enforcement policies. Local law enforcement officials shall discuss the policies which they adopt on these topics with school administrators from the school district or districts within their jurisdiction. It is further understood that school administrators shall share their procedures for critical incidents, developed in accordance with the policies issued by the Commissioner of Education, with local law enforcement officials. These procedures shall remain confidential and shall not be shared with the public.

9.3. Gang Threat and Recruiting Information

Law enforcement and school officials agree to engage in ongoing discussions and training in gang prevention and intervention, as appropriate, regarding gangs that are thought to be active in the area, gang recruiting and signs of gang activity or recruiting. School officials shall inform law enforcement officials of any signs of gang activity or recruiting observed on school grounds

9.4. Harassment, Intimidation or Bullying Policies

It also is understood that, pursuant to *N.J.A.C. 6A:16-7.7(a)1*, the harassment, intimidation or bullying policies required pursuant to *N.J.S.A. 18A:37-13 et seq.* and *N.J.A.C. 6A:16-7.7*, shall be developed by school officials in consultation with law enforcement officials, in addition to parents and other community members, including appropriate community-based social and health provider agencies and other school employees. It is agreed that law enforcement officials shall consult with school officials in the development of the policies and the annual review of the policies, the training needs of school employees and the extent and characteristics of harassment, intimidation and bullying behavior in the school buildings of the school district, pursuant to *N.J.A.C. 6A:16-7.7(e)*. It also is understood that the executive county superintendent shall maintain a current file copy of the harassment, intimidation or bullying policies, pursuant to *N.J.A.C. 6A:16-7.7(e)5*, for review by both education and law enforcement officials, upon request.

9.5. Law Enforcement Testimony at School Student Conduct Hearings; Required Notices to the County Prosecutor

The law enforcement agency agrees, upon the request of designated school officials, to make available officer(s) to testify, as appropriate, in any suspension or expulsion hearing before the board of education, pursuant to *N.J.S.A. 18A:37.1 et seq.*, or a hearing regarding harassment, intimidation or bullying, pursuant to *N.J.S.A. 18A:37.15d*, or other appropriate school authority as may be necessary to satisfy the due process rights of a student subject to school discipline, provided, however, that it is understood and agreed that any information provided by means of such testimony must not be made public, but rather must be kept confidential in accordance with the requirements of *N.J.S.A. 2A:4A-60*, and further provided that the County Prosecutor's Office must be given prior notification and a right to preclude the giving of such testimony where the testimony may interfere with or jeopardize any ongoing investigation or prosecution of any person. See also Article 9.5 of this Agreement.

For any school hearing pursuant to the *Anti-Bullying Bill of Rights Act*, if the principal has been notified by law enforcement officials that juvenile delinquency or criminal charges are pending against one or more of the alleged offenders, the school district must notify the county prosecutor of the proposed list of witnesses at least 5 days prior to the hearing.

9.6. "Tiplines" and Crime Prevention Programs

Any school who wishes to establish "tiplines" for the reporting of suspicious activity occurring on school grounds, or within Drug-Free School Zones, or for the reporting of any other crimes or planned or threatened acts of violence, shall coordinate with the appropriate law enforcement agency and the county prosecutor's office on the creation and implementation of the tiplines. The (*school official*) hereby agrees to post notice of any such tiplines on bulletin boards and/or other appropriate places to alert students to the existence of this means of reporting suspected or future crimes on an anonymous and confidential basis.

The County Prosecutor's Office and the (*law enforcement agency*) will assist school officials who wish to develop and implement student-oriented crime prevention and awareness programs.

9.7. Unsafe School Choice Option Policy: Victims of Violent Criminal Offenses

The Unsafe School Choice Option (USCO) provision (*Section 9532 of Title IX*) under the *No Child Left Behind Act (NCLB) of 2001* sets forth, in part, the following which applies to all school buildings that are a part of a local education agency (LEA):

"... a student ... who becomes a *victim of a violent criminal offense*, as determined by *State law*, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school." (*Italics added*)

The individual victim provision of the USCO policy attempts to fulfill the requirement for LEAs to provide relief to students who have been victimized, while providing schools with a *practical* means for making determinations on incidents of victimization that are within the purview of LEAs. The individual victim policy has been crafted to enable school staff to make reasonable determinations and actions regarding the policy. LEAs are strongly encouraged,

however, to consult with their school board attorneys and communicate with designated local and/or county law enforcement authorities, per the provisions of the *Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials* and *N.J.A.C. 6A:16-6.2(b)13*, on questions and issues that arise in the implementation of the individual victims of violent criminal offenses policy.

The following criteria must be used to determine when an enrolled student has become a victim of a violent criminal offense while in or on the grounds of a public elementary or secondary school that the student attends. These criteria only apply to a student who has become a victim of one or more of the violent criminal offenses enumerated in the [Unsafe School Choice Option Policy](#). A student is considered a victim of a violent criminal offense when:

- 1) A report has been made to law enforcement officials for suspicion that one of the violent criminal offenses enumerated below has occurred; **and**
- 2) One or more of the following applies:
 - Law enforcement officials have filed formal charges against the perpetrator(s) for commission of the violent crime; **or**
 - The perpetrator(s) of the violent crime has received sanctions in accordance with the district board of education's code of student conduct, pursuant to *N.J.A.C. 6A:16-7.1*; **or**
 - The perpetrator(s) of the violent crime either has not been identified or is not an enrolled student(s), but it is clear that the student (victim) has become a victim of a violent criminal offense based on objective indicators such as physical evidence, eyewitness testimony, and/or circumstantial evidence; **or**
 - The pre-existence of a restraining order against the perpetrator(s) of the violent crime.

Article 10. Law Enforcement Participation in Educational Programs

10.1. Law Enforcement's Contribution to Substance Abuse Education and Demand Reduction

The parties to this Agreement understand and accept that the only viable, long-term solution to the nation's drug epidemic is to reduce the public's demand for illicit substances, and that education emerges as one of the most promising means available by which to provide a generation of students with information, skills and incentives to resist the temptation to experiment with and use chemical substances. The parties further understand that the contributions of the law enforcement community to the goal of a drug-free New Jersey need not and should not be limited merely to disrupting the supply of illicit drugs; rather the law enforcement community can help to reduce the demand for drugs, not only by holding drug users accountable for their unlawful conduct, but also by actively participating in public awareness and prevention programs and educational initiatives. To this end, a number of programs have been developed by numerous organizations in which specially trained police officers participate directly in school-based educational programs. These programs are designed to teach students

about the nature and dangers of substance abuse, methods to enhance students' self-esteem, and proven techniques and skills for resisting peer pressure to experiment with drugs or engage in other dangerous activities and should support the Core Curriculum Content Standards, pursuant to *N.J.A.C. 6A:8-2*.

10.2. School Violence Awareness Week

School officials shall invite law enforcement officials to join school staff in the student discussions organized to observe School Violence Awareness Week, which occurs the week beginning with the third Monday in October of each year, pursuant to *N.J.S.A. 18A:36-5.1* and *N.J.A.C. 6A:16-5.2*. Upon invitation and as appropriate to the district's plans, law enforcement officials may assist with the student discussions required during School Violence Awareness Week.

10.3. Approval and Supervision of Educational Curricula

It is understood and agreed that education officials are at all times ultimately responsible for approving, supervising, monitoring, evaluating and otherwise ensuring the consistent high quality of all educational curricula and instructional programs provided to students, whether the instruction is provided by certified school employees or by specially trained law enforcement officers invited into the schools pursuant to Article 10.1 of this Agreement. It also is understood and agreed that local school officials remain ultimately responsible for making certain that all substance awareness instructional programs are developed and provided in a manner which is consistent with the requirements of *N.J.S.A. 18A:40A-1 et seq.*, *N.J.A.C. 6A:16-3*, Comprehensive Alcohol, Tobacco and Other Drug Abuse Programs, the New Jersey Department of Education's Core Curriculum Content Standards in Comprehensive Health and Physical Education, pursuant to *N.J.A.C. 6A:8*, specifically, the indicators under Standards 2.1 (Wellness – health promotion concepts and skills), 2.2 (Integrated Skills – health enhancing personal and interpersonal skills), 2.3 (Drugs and Medicines – alcohol, tobacco, and other drugs and medicines), 2.4 (Human Relationships and Sexuality – physical, emotional and social aspects of human relationships and sexuality) and Standard 9 (21st Century Life and Careers– addressing significant related areas, such as critical thinking, self-management, interpersonal communication, character development, ethics and safety) and the subjects of conflict management, problem solving, personal responsibility and cooperation under each of these strands, and any and all applicable rules, regulations and policies adopted by the State Board of Education or the Commissioner of Education concerning the development, review, monitoring, approval and implementation of K-12 alcohol, tobacco and other drug prevention education curricula and related courses of instruction.

10.4. Procedures for Inviting, Soliciting or Promoting Police Participation in Educational Programs

It is understood and agreed that no law enforcement officer shall be permitted to provide a course of instruction to students unless the officer has been invited or requested to provide such course of instruction by the appropriate school official. In order to enhance cooperation between law enforcement and education authorities, it is agreed that all requests by school officials for