

Inter-Agency Governance Agreement on the Handling of School Offenses

I. Introduction

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

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

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

County Board of Education, when they deem it to be appropriate and in accordance with State law and the Policies of the Brunswick County Board of Education. It shall not be necessary to implement a graduated response before students may receive a disciplinary reassignment, suspension or expulsion, when appropriate, in the discretion of school officials.

- H. The parties agree that SROs are employees of the Brunswick County Sheriff's Office and are not agents of the Brunswick County Board of Education. Nothing in this agreement shall be construed to make the Brunswick County Board of Education, its Board Members, employees or agents, liable for the acts or omissions of any SRO or other law enforcement officer.
- I. To the extent that this agreement conflicts with any applicable law or regulation, the applicable law or regulation shall control.
- J. Violations of this agreement shall not give rise to or be construed as creating a cause of action by any person against any party to this agreement or their employees or agents, nor shall such violations be considered negligence per se.
- K. Nothing in this agreement shall be construed as increasing the common law standard of care owed by the parties, or any of them, to any person. This agreement shall not be construed as to confer any additional benefit or right on students above what is owed to them by the Brunswick County Board of Education under the Individuals with Disabilities Education Act (as amended), Section 504 of the Rehabilitation Act or other law or regulation.
- L. No person is a third party beneficiary of this agreement.
- M. All parties to this agreement shall comply with the requirements of the Jessica Lunsford Act, as enacted in North Carolina.

II. Terms of the Agreement

A. Summary of Key Points

The parties agree to:

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

B. Key Factors in Making Disciplinary Decisions

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

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

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

C. Graduated Response Model to Minor Infractions

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

School Administration Intervention - Classroom interventions must be supported by school administrators who address more serious or repetitive behaviors and behaviors in school but outside of the classroom. Examples of behaviors at this level include repetitive patterns, defacing school property, truancy, threats, and minor behaviors in hallways, bathrooms, courtyards and school buses. School administration will implement the expectations of PBIS as a model for behavior management through all school activities. Administration intervention options might include, but is not necessarily limited to, time in the office, in

school suspension, redirection, after school detention, loss of privilege, reparation, and/or parent conference. Referral to appropriate school or district social services may be justified.

School Based Team (PST/MTSS) - When the behavior and needs of the student warrant, an assessment process and intervention with the use of school and community services may be appropriate. This intervention is facilitated by the School Counselor or designated PST Coordinator at the school. School-based administration is involved in the process. The team should consist of individuals knowledgeable about the student including one or more teachers, administrators, support personnel, parent/guardian, the student and community members. Repetitive truancy or defiance of school rules, and behaviors that interfere with others such as vandalism or harassment belong at this level as well as misbehaving students who would benefit from service provision. Assessment and service intervention options should include any Classroom, Administrative or School-Based interventions and might include referral to community service or community based program, in-school suspension, out- of-school suspension, expulsion or referral to court counselor or court. Truant behavior should not lead to an out-of-school option. School Resource Officers can be involved in their role on the school based team.

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

School Based Graduated Response Model to Minor Infractions

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

At each level of intervention it should be assessed whether the Focused Acts (as defined below) are due to academic, mental health, or social issues. Note that many student

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

E. Focused Acts

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

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

- a. Affray (not involving serious physical injury or weapons and no heightened level of concern)
- b. Simple Assault (not involving school personnel and no heightened level of concern)
- c. Disorderly Conduct
- d. Misdemeanor Larceny
- e. Simple Possession of Marijuana (personal use)
- f. Possession of Drug Paraphernalia (personal use, related to use of marijuana, and no evidence of sale)
- g. Damage to property (real property or personal property, damage less than \$500, no heightened level of concern)
- h. Possession/Use of Alcohol
- i. weapons that are not a firearm or facsimile (pocket knife, etc...)

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

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

1. If law enforcement officers need to come to a school for official business, they first should contact the school administration. Contact between the school and law enforcement on matters involving students shall be made through the office of the principal or superintendent.

2. Law enforcement should interview students away from the school regarding non-school related matters, unless an investigation involves the parent/guardian, or unless reasonable efforts by law enforcement to interview the student away from campus have failed. When necessary, law enforcement officers should contact the office of the principal or superintendent prior to arriving at school to coordinate the most appropriate time.
3. When law enforcement officers must interview or arrest a student at school, all attempts should be made to avoid embarrassing the student before teachers and peers and to avoid disrupting the educational program of the student and the school.
4. If law enforcement officers have a warrant for a student's arrest, they must be permitted to arrest the student; however when safely possible, the arrest should be conducted in the principal's office or otherwise out of view of other students. The place of arrest ultimately remains in the discretion of the law enforcement officer.
5. Law enforcement officers normally should remain in the administration office while school personnel seek out the student unless immediate intervention by the officer is necessary to prevent injury, a serious crime, or flight of the student.
6. If possible, questioning by law enforcement officer should not cause a student to miss class time.
7. When reasonably possible, questioning by law enforcement officers should be conducted in a private room or area where confidentiality can be maintained. This should be an area removed from observation by or contact with other students and school personnel.
8. When law enforcement officers wish to question a student as a suspect in a criminal investigation, the principal or designee, or the law enforcement officer, shall make a reasonable attempt to notify the parent/guardian and give the parent/guardian an opportunity to be present for the interview, except in cases where the parent/guardian is likewise a suspect in the investigation.
9. When law enforcement officers wish to question a student as a witness in a criminal investigation, the principal or designee, acting *in loco parentis*, may be present during the interview, to help comfort the student.
10. When a crime against a student is alleged to have been committed by school personnel, the school system administration will stay any internal or personnel investigation until the criminal investigation is complete. Law enforcement officer shall provide a copy of all investigative records to the school administration unless a determination in writing from District Attorney is provided that disclosure of the records will jeopardize the fair administration of justice.
11. No student shall be released from school without the parent's consent unless a warrant for arrest is presented by a properly authorized law enforcement officer or unless the officer represents that no warrant is needed under the circumstances.

F. Role of the School Resource Officer (SRO)

The mission of the SRO is to improve school safety and the educational climate at the school, not to enforce minor incidents of school discipline or punish students. The SRO's presence on school campus is desirable to reduce the likelihood of weapons, drugs, and persons with the intent to commit harm from entering upon the campus or to attempt to disable persons with intent to harm and confiscate weapons and drugs that enter campus premises. This primary safety concern could be compromised when SROs are

removed from campus to transport students on Focused Acts or when distracted on campus by students committing Focused Acts. Absent a real and immediate threat to student, teacher, or other school official, and absent the situations described herein where SRO intervention is deemed appropriate, the school administrators shall be responsible for the handling of situations and shall not direct an SRO to take action contrary to the terms, conditions, and spirit of this agreement and the role of the SRO that would result in the unnecessary filing of a juvenile petition, citation, or arrest.

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

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

1. Warning Notice

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

The parties shall consult on the development of the Warning Notice.

2. Intervention

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

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

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

3. Exigent Circumstances

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

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

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

4. Special Education Prerequisites

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

6. Bullying

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

7. Diversion

SRO's are encouraged to utilize Teen Court as a diversion even though a case could be referred to court. SRO's must contact the Teen Court Director for high school aged defendants or Success Coach for Peer Court for middle school aged defendants for approval. This is true even for offenses that have not been historically approved for Teen Court referral such as the misdemeanor weapon on campus offense.

8. Arrest and Detention

No student accused of a Focused Act shall be placed in a secure facility unless approved by a juvenile court intake officer and District Court Judge. If a student meets the criteria for filing of a juvenile petition, it is presumed that the student will

be released to his parent, guardian, custodian, or relatives to be returned to his legal caretaker.

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

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

9. Treatment of Elementary Age Students

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

10. Parents, Guardians and Private Service Providers

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

H. Data Sharing, Collection and Monitoring

Due to FERPA laws, the release of student information from school staff to law enforcement can only include the following items if a court order is not presented:


- 1) Name;
- 2) Photographs;
- 3) Participation in officially recognized activities and sports;
- 4) Weight and height of members of athletic team;
- 5) Dates of attendance;
- 6) Diplomas (including endorsements earned), industry credentials/certifications and awards received;

memberships would be beneficial. At least annually, the Team will prepare a report of activities and make recommendations for improvements to the agreement and/or its implementation. See Appendix C for team membership.

I. Duration and Modification of Agreement


This agreement shall become effective July 1, 2017 and shall remain in full force and effect for three years from its effective date. The agreement may be modified or extended at any time by amendment to the agreement.

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



Ed Lemon, Chairman, Brunswick County Board of Education

10/25/17
Date




Les Tubbs, Superintendent, Brunswick County Schools

10/23/17
Date



Scott L. Ussery, Chief District Court Judge

4-30-18
Date




Jon David, Prosecutor, 13th Judicial District

Oct 4, 2017
Date



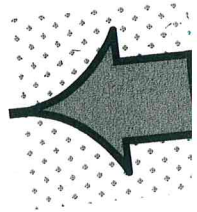
John Ingram, Sheriff, Brunswick County

10/13/2017
Date



Lance Britt, Chief Court Counselor, 13th District, Department of Public Safety

11/13/2017
Date



Appendix A: Glossary of Terms

As used in this Agreement, the term:

- a. "Student" means a child or adult enrolled in the Brunswick County Schools.
- b. "Juvenile" means a student under the age of 16 years.
- c. "Adult" means a student 16 years of age or older.
- d. "Intake" means the division of the Juvenile Court responsible for reviewing petitions to determine which petitions may be handled informally and by diversion; which petitions may be referred to court, and evaluating which juveniles should be detained in the juvenile detention center or placed at another location, or returned home.
- e. "Detention Assessment Tool" means a risk assessment instrument used by Intake to determine if the juvenile should be detained or release. The Detention Assessment Tool measures risk according to the juvenile's present offense, prior offenses, Inter-Agency Governance Agreement on the Handling of School Offenses runaways or escapes, and the juvenile's current legal status such as probation, commitment, etc.
- f. "Felony" is defined by the North Carolina General Statutes.
- g. "Misdemeanor" is defined by the North Carolina General Statutes.
- h. "Warning Notice" means a document or form used by the SRO to place a student on notice of his or her commission of a Focused Act and to warn the student that subsequent commissions of Focused Acts may result in graduated responses including but not limited to mediation, campus restrictions, mandatory participation in afterschool programs that may require parental participation, referral to support services for a chronically disruptive student for family assessment and treatment, and referral to the juvenile court as the last resort.
- i. "Diversion" means an educational program developed by the Court Counselor's Office or other provider approved by the Court Counselor's Office for those juveniles who have been charged with less serious delinquent acts, and Intake believes is not a delinquent child and most likely does not require probation or commitment to a juvenile detention center.
- j. "Focused Acts" are defined in section D.
- k. "IDEA" means Individuals with Disabilities Improvement Education Act which is a federal law ensuring services to children with disabilities. This law governs how states and public agencies provide early intervention, special education and related services to students.
- l. "IEP" means Individualized Education Program or Plan which is a written statement for each student with a disability that includes goals to meet the student's needs that result from the student's disability to enable the student to be involved in and make progress in the general education curriculum.
- m. "PBIS" means Positive Behavioral Intervention and Supports (PBIS) is a systemic approach to proactive, school-wide behavior based on a Response to Intervention (RtI) model. PBIS applies evidence-based programs, practices and strategies for all students to increase academic performance, improve safety, decrease problem behavior, and establish a positive school culture.
- n. "MTSS" means Multi-Tiered System of Supports which is a comprehensive system of differentiated supports that includes evidence-based instruction, universal screening, progress monitoring, formative assessments, research-based interventions matched to student's needs, and educational decision-making using student outcome data.

Appendix B: Calls for Assistance Protocol

CODE 1 = Low Level Response

CODE 2 = Moderate Level Response

CODE 3 = High/Emergency Level Response

CODE 1

Respondents - Principal, Ass't Principal, Counselor (requires only one respondent)

CODE 1 represents a call for assistance in which the teacher/staff member needs an administrator and there is no immediate threat to the order and/or safety of the school environment. ***This is a minor issue and does not require immediate attention.***

CODE 2

Respondents - Principal, Ass't Principal, Counselor, SRO, ISS Coordinator (If available).

CODE 2 represents a call for assistance in which the teacher/staff members needs assistance. CODE 2 is a disturbance in a classroom (yelling/non-combative), student that is non-compliant, fight/assault not in progress, accidental call to 911, or and other low level discipline, or safety issued that violates BCS code of conduct. ***This is a moderate level response and requires a minimum of two respondents.***

CODE 3

Respondents - Principal, Ass't Principal, Counselor, SRO, ISS Coordinator (If available), School Nurse (If applicable), Head Custodian

CODE 3 represents a call for assistance in that requires immediate response. This response is deemed a true emergency such as an fire, medical emergency, missing student/running out the door, student out of control and is a immediate threat to the safety of the school environment or themselves, and any other situation that places the order and safety of the school environment in imminent jeopardy. ***This is a high level response and will require all respondents.***

Appendix C: Progress Monitoring Team Membership

SRO Administrator

Chief Court Counselor of Department of Juvenile Justice

School Administrators (one HS , one MS, and one elementary)

Assistant Superintendent for BCS

Director of Exceptional Children for BCS

Executive Director of Elementary and MS

Executive Director of Student Support Services