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CUMBERLAND COUNTY

# Cumberland County School Justice Partnership Memorandum of Understanding

BY \_\_\_\_\_

## PREAMBLE

**WHEREAS**, schools and law enforcement agencies share responsibility for school safety and must work together with complementary policies and procedures to create a safe school environment.

**WHEREAS**, some student misconduct can be best addressed through classroom, in-school, family, and community strategies and maintaining a positive climate within schools rather than through the justice system.

**WHEREAS**, schools and law enforcement agencies must ensure a consistent response to student misbehavior, efficiently utilizing alternative support services and reducing involvement of law enforcement and justice agencies for minor misconduct at school and school-related events.

**WHEREAS**, each of the agencies executing this agreement have an important role in promoting the interests of justice, the interests of students, the school system, and the proper application of resources for the benefit of the systems, institutions, and the community at large, and by joining this agreement, each of the executing agencies acknowledge and pledge support and participation in promoting the School Justice Partnership.

**WHEREAS**, clarifying the responsibilities of school and law enforcement personnel with regard to nonemergency disruptive behavior at school and school-related events promotes the best interests of students, the school system, law enforcement, and the community.

## TERMS, CONDITIONS AND COVENANTS

**NOW, THEREFORE**, the Parties hereby agree as follows:

This memorandum of understanding (MOU) expresses the agreement of the parties for responding to non-emergency school disruptions. It strives to ensure a consistent response to student misbehavior, clarify that school officials, not law enforcement, are responsible for non-criminal school disciplinary matters, efficiently utilize alternative support services, and reduce involvement of law enforcement and court agencies in minor non-criminal misconduct at school and school-related events. While this MOU deals with responses to non-emergency school disruptions, the parties 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 underpinning this MOU:

- A. Law enforcement actions, such as arrests, citations, or court referrals, should not be used for school misconduct which does not violate criminal law or the policies and procedures of the law enforcement officers or agency does not reasonably require law enforcement intervention in order to maintain a safe and orderly learning environment.
- B. Responses to school misconduct should be reasonable, consistent, and fair with appropriate consideration of relevant factors such as the student's age, the nature and severity of the

incident, and the conduct's impact on other students, school staff, and the school environment.

- C. Students should be held accountable for their misconduct through a graduated response model that provides a continuum of services with increasingly more severe sanctions for continued or more serious misbehavior.
- D. Students who do not commit serious misconduct should receive appropriate redirection and support from in-school and community resources prior to application of exclusionary discipline practices. This does not excuse compliance with mandatory reporting laws and policies.
- E. Implementation of this MOU will require regular meetings, multidisciplinary training, annual evaluations, and an ongoing commitment to fostering the relationships that are the foundation of this agreement.
- F. Although this MOU seeks to reduce the involvement of law enforcement and the justice system in minor misconduct, it does not prohibit or prevent such involvement when deemed necessary by Principals, the Superintendent of the Cumberland County Schools, the Cumberland County Board of Education, or the appropriate law enforcement agency or officer. However, because court involvement may produce long-lasting negative outcomes for students and communities, school officials and law enforcement shall make reasonable efforts to implement an alternative or graduated response to student misconduct.
- G. This MOU shall not inhibit, discourage, or prevent individual victims of student misconduct from initiating criminal or juvenile charges against students nor shall it affect the prosecution of such charges.
- H. School Resource Officers (SROs) utilized within the Cumberland County Schools are employees of the Cumberland County Sheriff's Office who work in conjunction with school officials but are not agents of the Cumberland County Board of Education. Nothing in this MOU shall be construed to make the Cumberland County Board of Education, its Board Members, employees or agents, liable for the acts or omissions of any SRO or other law enforcement officer. Nor shall anything in this MOU control the conduct of law enforcement officers or in any manner be deemed to be a delegation of the Sheriff's duties or responsibilities to make the Cumberland County Board of Education, its Board Members, employees or agents or any other person or party to this MOU and shall not be construed to impinge upon or contravene the provisions of N.C. Gen. Stat. §162-24.
- I. To the extent that this MOU conflicts with any applicable law, regulation, or policy, including without limitation the Cumberland County Schools Student Code of Conduct ("Student Code of Conduct"), the applicable law, regulation or policy shall control.
- J. This MOU is not a binding contract. Violations of this MOU shall not give rise to or be construed as creating a cause of action by any party, person or entity against any party to this agreement or their employees or agents; nor shall such violations be considered to be or constitute evidence of negligence or of the violation of any federally or state protected right or give rise to any cause of action under 42 U.S.C §§ 1981 - 1986.
- K. Nothing in this MOU shall be construed as increasing the common law standard of care owed by the parties, or any of them, to any person. This MOU shall not be construed as to

confer any additional benefit or right on students above what is owed to them by the Cumberland County Board of Education under the Cumberland County Schools Student Code of Conduct, the Individuals with Disabilities Education Act (as amended), Section 504 of the Rehabilitation Act, or other law or policy or regulation.

- L. No person is a third-party beneficiary of this MOU.

## I. DEFINITIONS

- A. **“Student Code of Conduct”** means the Cumberland County Schools Student Code of Conduct.
- B. **“Exclusionary Discipline Practices”** refers to suspension, expulsion, referral to the juvenile justice system or initiation of criminal charges.
- C. **“Graduated Response Model”** is a tool that identifies appropriate interventions and consequences for school misconduct. The Cumberland County Schools Student Code of Conduct which appears at [www.ccs.k12.nc.us](http://www.ccs.k12.nc.us) is a Graduated Response Model.
- D. **“Public School Property”** means the physical premises of all school campuses and properties, active bus stops, all vehicles under the control of Cumberland County Schools, and the premises of all school-sponsored curricular or extracurricular activities, both on or away from a school campus.
- E. **“School-Based Diversion”** (SBD) means an educational program or community-based service identified as an effective alternative to exclusionary discipline practices.
- F. **“School-Based Misconduct”** means any non-criminal violation of the Student Code of Conduct.
- G. **“School Resource Officer”** (SRO) means a certified law enforcement officer who is assigned to provide coverage to a school or a set of schools.
- H. **“Student”** means a person duly enrolled in the Cumberland County Schools, regardless of age.

## II. TERMS OF AGREEMENT

### A. Establishment of Cumberland County School Justice Partnership

This MOU establishes the Cumberland County School Justice Partnership (CCSJP). The CCSJP shall be comprised of the following agencies: Cumberland County Board of Education; Cumberland County Sheriff's Office; Fayetteville Police Department; Division of Adult Correction and Juvenile Justice for the 12<sup>th</sup> Judicial District; Office of the District Attorney for the 14<sup>th</sup> Prosecutorial District; Cumberland County Department of Social Services; Cumberland County Department of Public Health; Alliance Behavioral Healthcare (local managing organization for public behavioral healthcare); and the District Court of the 12<sup>th</sup> Judicial District.



The CCSJP shall:

1. Convene regular meetings on a schedule established by the parties
2. Share this MOU with appropriate personnel of agencies that are a part of this partnership
3. Provide necessary and regular training on implementation of the MOU
4. Monitor implementation of the MOU
5. Collect data and assess the effectiveness of the MOU
6. Cooperate on seeking funding sources
7. Modify the MOU as appropriate

**B. Problem-Solving Approach**

1. Schools will make reasonable efforts to resolve school-based misconduct using appropriate classroom interventions, support services, and community strategies prior to implementing exclusionary discipline practices. To ensure equal treatment, teachers and administrators should use the Graduated Response Model, as set forth in the Cumberland County Schools Student Code of Conduct, to make informed decisions on consequences, interventions, and responses to particular types of misconduct. However, the decision for each student must be tailored to address the student's specific circumstances and needs and the need to ensure school safety.

2. At each level of intervention, the person handling the intervention should assess whether the student misconduct is due to academic, mental health, social issues, or overlapping issues.

3. When determining appropriate interventions and consequences, all relevant factors should be considered, including, but not limited to:

- Age, health, risks, needs, and disability or special education status of the student
- Intent, context, prior conduct, and record of behavior of the student
- Previous interventions with the student
- Student's willingness to repair the harm
- Parents'/guardians' willingness to address any identified issues
- Seriousness of the incident and degree of harm caused
- Effect on the educational environment by the student's continued presence in school

4. Race, ethnicity, gender, gender identity, sexual orientation, religion, and national origin of the student and / or family will not be considered when determining consequences for student misconduct.

**C. Role of Law Enforcement at the School**

**1. Role of the School Resource Officer (SRO)**

The role of the SRO is to maintain school safety and to enforce the criminal law. School administrators shall be responsible for handling school-based misconduct. School administrators work in conjunction with but shall not direct or request an SRO to take action regarding school-based misconduct. The role of the SRO in Cumberland County Schools is specifically defined in the current Memorandum of Agreement between the Sheriff of Cumberland County and the Cumberland County Board of Education (the "SRO

MOA”), which is incorporated herein by reference, and the terms of which control in the event of any conflict between this MOU and the SRO MOA.

## 2. Role of Non-SRO Law Enforcement Officers

Law enforcement officers who are not SROs to the extent reasonably appropriate should adhere to the following protocols when on school grounds in non-emergency circumstances:

i. Coordination with School Administrators – Law enforcement shall endeavor to act through school administrators whenever they plan any activity on school grounds.

ii. Necessity of the Action – Prior to entering a school to conduct an investigation, arrest, take custody of a person or search, law enforcement officers should consider the necessity of such action based on the potential danger to persons; the likelihood of destruction of evidence or other property; the ability to conduct the investigation, arrest, or search elsewhere; and other factors relevant to law enforcement and public safety. In the event of any conflict between this paragraph and the Sheriff’s policies and procedures, those procedures shall control.

iii. Custody Protocols – When taking a student into custody, if it will not jeopardize the safety of the officer or others, law enforcement officers should make reasonable efforts to avoid making arrests or taking students into custody on school premises. Whenever reasonably possible in light of safety concerns, students shall be taken into custody out of sight and sound of other students. In the event of any conflict between this paragraph and the Sheriff’s policies or procedures, those procedures shall control.

## **D. Responding to Student Misconduct**

Students need to be held accountable for misconduct in order to learn the repercussions of their misconduct or conduct or their mistakes, take responsibility for their actions, and reconnect to the school community. One of the most effective means of holding students accountable for their actions is providing them with support from school teachers and officials who interact with them daily. The appropriate response to school-based misconduct should, to the extent reasonably possible, be narrowly tailored using the Student Code of Conduct for guidance.

### 1. Graduated Response Model Embodied by the Student Code of Conduct

The Student Code of Conduct ensures that, when warranted under the circumstances, all appropriate interventions have been pursued before application of exclusionary discipline practices.

The Student Code of Conduct includes a multi-tiered system of supports designed to help professionals at each level of intervention understand the options available to address the misconduct. Levels of intervention include classroom intervention, school administration intervention, school-based team intervention and law enforcement intervention, as described below. Depending upon the circumstances of an individual situation, and most commonly when the misconduct is relatively severe or worse, lower level or intervening levels of intervention may be skipped in order to better match the intervention with the behavior.

i. *Classroom Intervention* – The teacher will manage classroom intervention for behaviors that are passive and non-threatening, such as violations of minor classroom rules. Classroom intervention options might include redirection, re-teaching, modifying seating arrangements, and initiating parental contact. SROs should not be involved at this level.

ii. *School Administration Intervention* – School administrators will manage intervention to address more serious or repetitive behaviors and behaviors that occur in school but outside of the classroom. Administration intervention options might include, but are not limited to, in-school suspension, redirection, loss of privileges, reparations, or parent conferences. Referral to appropriate school or external community-based services may be justified. SROs should not be involved at this level.

iii. *School-Based Team Intervention* – The school administrator will employ a school-based team approach when the behavior and needs of the student warrant an assessment process and intervention using school and community services. Assessment and service intervention options should include any classroom or school administration interventions and might include referral to a community service or community-based program, in-school suspension, disciplinary reassignment, out-of-school suspension, expulsion, or referral to court. SROs may be involved as part of a school-based team.

iii. *Law Enforcement Intervention* – When violations of criminal law occur, the school administrator shall notify law enforcement, including the SRO. Because this intervention is managed by law enforcement, behaviors at this level must be violations of criminal law. However, involvement of law enforcement does not necessarily mandate referral to juvenile court or initiation of criminal proceedings. Law enforcement options may include verbal warning; written warning; conference with the student, parents, teachers and/or others; teen court; referral to community agencies; community service; criminal charges; and/or juvenile charges.

#### **E. Determining Appropriate Levels of Intervention**

1. School-Based Misconduct

If a student engages in school-based misconduct, the school administrator and his or her designee(s) will be the primary sources of intervention and determination of disciplinary consequences. In addition, school officials should make reasonable efforts to connect students to school or community-based support services, such as counseling, mentoring, or extracurricular activities.

2. Criminal Law Violation

If a student commits an act that constitutes a violation of criminal law, law enforcement intervention shall occur. Law enforcement intervention does not mean that an arrest, invocation of temporary custody, and/or court referral is mandated. If the behavior does not involve a threat to school safety and may be appropriately addressed through another response, the SRO may utilize alternatives to formal law enforcement action before seeking a juvenile petition or initiating a criminal charge.

### **III. SPECIAL CONSIDERATIONS**

#### **A. Exigent Circumstances**

Situations may arise that warrant immediate removal of a student from public school property, including, for example, where such removal may be necessary or appropriate in order to maintain the safety of other students and school staff or to prevent or stop disruptions to the learning environment. (The Student Code of Conduct provides for temporary suspensions under such circumstances.)

#### **B. Special Education Prerequisites**

A juvenile petition or criminal process should not be filed against a student with an Individualized Education Program (IEP) without first considering the student's IEP and any Behavior Improvement Plan ("BIP") and existing behavioral supports. If the SRO believes that a juvenile petition or criminal process is appropriate and the student has an IEP, the SRO should notify the appropriate school administrator.

#### **C. Bullying**

Student actions that involve bullying not involving assault or other criminal act should be handled in accordance with existing policies of the Cumberland County Schools regarding bullying, consistent with the Safe Schools Act, and as provided by law.

#### **D. Diversion**

SROs may utilize Teen Court or the Cumberland County Misdemeanor Diversion Program as diversion options, if they deem appropriate, even though the subject cases could be referred to court.

#### **E. Truancy**

Parties to this MOU recognize that truancy issues are often closely related to school misconduct, and commit to refer students and their parents or guardians to the Cumberland County Truancy Mediation Council as needed in order to support regular school attendance of Cumberland County Schools students. In cases where intervention by the Truancy Mediation Council proves unsuccessful, parties may pursue prosecution of parents or guardians under the North Carolina Compulsory Attendance Law, G.S. § 115C-378.

#### **F. Parents, Guardians, and Private Service Providers**

Parties to this MOU encourage parents, guardians, and private service providers to involve schools in a student's treatment. Wrap-around services (when multiple providers and professionals from various disciplines work together to address a student and his or her family's needs) are more effective when all of the professionals and service providers that work with a student share relevant information.

#### **G. Suicide, Child Abuse, and Self-Injurious Behavior**

If a student expresses suicidal thoughts or there is evidence or reports of child abuse, neglect or self-injurious behavior, those incidents should be reported immediately in accordance with Cumberland County Schools Policy and North Carolina state law, including, but not limited to the provisions of Chapter 122C of the North Carolina General Statutes.



#### **IV. Training**

The parties will ensure that appropriate members of their respective agencies, especially those directly interacting with students and making discipline or charging decisions, receive appropriate training in the content and implementation of this MOU. Training and implementation for existing parties should be an ongoing process and any new officers, employees, agents, representatives, contractors, or subcontractors whose work relates to this MOU should be trained as they are hired.

#### **V. Data Collection, Data Sharing, and Progress Monitoring**

##### **A. Data Collection**

The parties agree that they will provide baseline data for comparison purposes and regularly collect, share, monitor, and report data resulting from the implementation of this MOU. Except as may otherwise be required by applicable law or regulation, in order to protect student privacy and confidentiality, or identifying data should be included in the reports

##### **B. Data Sharing**

Any agency (school, law enforcement, social services, mental health, or other services) that refers a student to another agency should request follow-up information to determine what actions have occurred. Information sharing agreements (Mutual Exchange of Information Form) should be requested from the parents or guardians so private agencies can also share information with the schools. Regular follow-up and data sharing is required for monitoring of individual student progress and determination of service needs.

##### **C. FERPA Compliance**

The SRO may have access to confidential student records or to any personally identifiable information of any student as defined in 34 CFR 99.3 to the extent allowed under the Family Educational Rights and Privacy Act (FERPA) or as otherwise provided under applicable law or as permitted through lawful process. SROs and other law enforcement officers shall have access to confidential student records or personally identifiable information in those records when conducting a criminal investigation or otherwise when carrying out their duty to maintain school safety. School officials may share relevant confidential student records and personally identifiable information contained in those records with SROs or other law enforcement officers under either of the following circumstances:

- 1) The SRO has a Consent for Release of Information from a parent or eligible student to review the records or information in question.
- 2) The Principal or designee reasonably determines that disclosure to the SRO or other law enforcement officer without the Consent for Release of Information is necessary in light of an articulable and significant threat to one or more person's health or safety.
- 3) An order of the Court directs disclosure of information to the law enforcement officer.



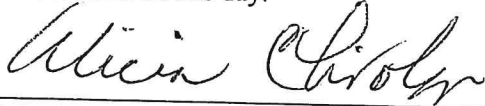
**D. Progress Monitoring**

The parties agree to establish a Progress Monitoring Team composed of designees from each signatory to this MOU. On a regular basis, the parties agree that the Progress Monitoring Team will meet to provide oversight of the MOU and review relevant data and analysis. Each year the Progress Monitoring Team will determine if changes to their memberships would be beneficial.

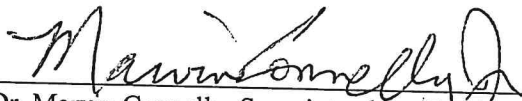
**VI. Duration and Modification of Agreement**

This MOU shall become effective October 1, 2020 and shall remain in full force and effect until modified by agreement of the parties or terminated by operation of law. However, nothing shall preclude a party from withdrawing from the Agreement in that party's discretion.


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

  
\_\_\_\_\_  
Alicia Chisolm, Chair, Cumberland County Board of Education

8 September 2020  
Date

  
\_\_\_\_\_  
Dr. Marvin Connelly, Superintendent, Cumberland County Schools


9-23-2020  
Date

  
\_\_\_\_\_  
Honorable Toni S. King, Acting Chief District Court Judge,  
12<sup>th</sup> Judicial District


9-23-2020  
Date

  
\_\_\_\_\_  
Billy West, District Attorney's Office, 12<sup>th</sup> Judicial District

9/23/20  
Date

  
\_\_\_\_\_  
Ennis W. Wright, Sheriff, Cumberland County


9/23/20  
Date

  
\_\_\_\_\_  
Gina V. Hawkins, Chief of Fayetteville Police Department

9/23/2020  
Date

  
\_\_\_\_\_  
Jason Hunter, Chief Court Counselor, 12<sup>th</sup> District

9/23/20  
Date

  
\_\_\_\_\_  
Brenda Reid Jackson, Director, Cumberland County DSS

9-23-20  
Date

Jennifer Green  
Dr. Jennifer Green, Director, Cumberland County Department of  
Public Health

9/22/2020  
Date

Terrasine Gardner  
Terrasine Gardner, Member Engagement Manager, Alliance Health

9/23/2020  
Date