

# **CHAPTER 10. SAFE SCHOOLS**

## **GENERAL PROVISIONS**

### **§ 10.1. Statutory authority**

The statutory authority for this chapter is Article XIII-A of the Public School Code of 1949 (24 P.S. §§ 13-1301-A—13-1313-A (relating to safe schools)), including specifically section 1302.1-A (24 P.S. § 13-1302.1-A (relating to regulations)).

### **§ 10.2. Purpose**

The purpose of this chapter is to establish and maintain a cooperative relationship between school entities and local police departments in the reporting and resolution of incidents that occur on school property, at any school sponsored activity, or on a conveyance as described in the Safe Schools Act (such as a school bus) providing transportation to or from a school or school sponsored activity.

### **§ 10.3. Definitions**

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

*Chief school administrator*—The superintendent of a public school district, executive director of an area vocational-technical school, executive director of an intermediate unit or chief executive officer of a charter school, including a cyber charter school.

*IEP*—Individualized education program.

*Incident*—An instance involving an act of violence, the possession of a weapon by any person, the possession, use, or sale of a controlled substance or drug paraphernalia as defined in The Controlled Substance, Drug, Device and Cosmetic Act, as amended (35 P.S. §§ 780-101 – 780-144), the possession, use, or sale of alcohol or tobacco by any person on school property, or conduct that constitutes an offense under section 1303-A(b)(4.1) or (4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.1), (4.2) (relating to reporting)).

*Local police department*—A police department having jurisdiction over school property of the school entity.

*Memorandum of understanding*—A confirmation of mutually agreed upon terms between two or more parties, in the form of a document mutually agreed to by a school entity and a local

police department as required by section 1303-A(c) of the School Code (24 P.S. § 13-1303-A(c)).

*Positive behavior support plan*—A plan for a student with a disability or eligible young child who requires specific intervention to address behavior that interferes with learning. A positive behavior support plan is developed by the IEP team, is based on a functional behavior assessment, and becomes part of the individual eligible young child's or student's IEP. These plans include methods that utilize positive reinforcement and other positive techniques to shape a student's or eligible young child's behavior, ranging from the use of positive verbal statements as a reward for good behavior to specific tangible rewards.

*School-based diversion program*—A program that, in partnership with other stakeholders, diverts youth out of the juvenile justice system. A school-based diversion program may include a youth aid panel in which a panel of community members decides an appropriate resolution to hold a student accountable for the student's actions by, among other options, requiring the student to complete educational activities, community service, restitution and any other related program or service.

*School-wide positive behavior support*—A school-wide, evidence-based and data-driven approach to improving school behavior that seeks to reduce unnecessary student disciplinary actions and promotes a climate of greater productivity, safety and learning.

*School Code*—The Public School Code of 1949 (24 P.S. §§ 1-101—27-2702).

*School entity*—A public school district, intermediate unit, area vocational-technical school or charter school, including a cyber charter school.

*Student with a disability*—A student who meets the definition of “student with a disability” or for whom an evaluation is pending under § 14.101 (relating to definitions).

*Protected handicapped student*—A student who meets the definition of “protected handicapped student” or for whom an evaluation is pending under § 15.2 (relating to definitions).

## **MEMORANDUM OF UNDERSTANDING**

### **§ 10.4. Memorandum of understanding.**

(a) Each chief school administrator shall execute and update, on a biennial basis, a memorandum of understanding with each local police department having jurisdiction over school property of the school entity.

(b) A memorandum of understanding between a school entity and a local police department, including its development and implementation, shall meet the requirements of section 1303-A(c) of the School Code (24 P.S. § 13-1303-A(c)).

(c) In developing a memorandum of understanding to execute with a local police department, a school entity shall consult and consider the model memorandum of understanding promulgated by the Board (*see Appendix A*).

(d) On a biennial basis, a school entity shall file with the Department's Office for Safe Schools a memorandum of understanding with each local police department having jurisdiction over property of the school entity. As part of its filing with the Department, a school entity shall identify any substantive differences between the memorandum of understanding adopted by the school entity and the model memorandum of understanding and provide a statement of reasons for the differences.

(e) The Board, on a biennial basis, will review and, as necessary, revise its model memorandum of understanding (*see Appendix A*). As part of its biennial review, the Board will consider the memoranda of understanding filed by school entities with the Department's Office for Safe Schools and statements explaining school entities' reasons for adopting a memorandum of understanding having substantive differences with the model memorandum of understanding. The Board will announce revisions to the model memorandum of understanding by notice published in the *Pennsylvania Bulletin*.

## **NOTIFICATION OF INCIDENTS**

### **§ 10.5. Immediate notification**

(a) The chief school administrator, or his designees, shall immediately notify the local police department when an offense listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) occurs on school property, at any school sponsored activity or on a conveyance as described in the Safe Schools Act (such as a school bus) providing transportation to or from a school or school sponsored activity.

(b) Notification shall be made to the local police department by the most expeditious means practicable.

(c) As part of its notification of the incident to the local police department, the chief school administrator or his designees shall provide as much of the information described in this subsection as is available at the time of notification. However, the gathering of information shall not unnecessarily delay notification.

- (1) Whether the incident is in-progress or has concluded.
  - (2) Nature of the incident.
  - (3) Exact location of the incident.
  - (4) Number of persons involved in the incident.
  - (5) Names and ages of the individuals involved.
  - (6) Weapons, if any, involved in the incident.
  - (7) Whether the weapons, if any, have been secured and, if so, the custodian of the weapons.
  - (8) Injuries, if any.
  - (9) Whether EMS or the Fire Department were notified.
  - (10) Identity of the school contact person.
  - (11) Identity of the witnesses, if any.
  - (12) Whether the incident involves a student with a disability and, if so, the type of disability and its impact on the student's behavior.
  - (13) Other such information as is known to the school entity and believed to be relevant to the incident.
- (d) In responding to students who commit an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)), a school entity may consider the propriety of utilizing available school-based programs, such as school-wide positive behavior supports, to address the student's behavior and shall notify law enforcement of the student's placement in the program. Nothing in this provision shall be read to limit law enforcement's discretion.

## **§ 10.6. Discretionary notification**

- (a) The chief school administrator, or his designees, may notify the local police department having jurisdiction when an offense listed under section 1303-A(b)(4.2) of the

School Code (24 P.S. § 13-1303-A(b)(4.2)) occurs on school property, at any school sponsored activity, or on a conveyance as described in the Safe Schools Act (such as a school bus) providing transportation to or from a school or school sponsored activity.

(b) In determining whether to notify the local police department of an incident described in subsection (a), the chief school administrator, or his designees, may consider the following factors:

- (1) The seriousness of the situation.
- (2) The school's ability to defuse or resolve the situation.
- (3) The child's intent.
- (4) The child's age.
- (5) Whether the student has a disability and, if so, the type of disability and its impact on the student's behavior.
- (6) Other factors believed to be relevant.

(c) In making a determination whether to notify law enforcement when an offense listed under section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)) occurs on school property, at any school sponsored activity, or on a conveyance as described in the Safe Schools Act (such as a school bus) providing transportation to or from a school or school sponsored activity, and to the extent that it has authority, a school entity may consider addressing the student's behavior through the use of available school-based diversion programs and available school-wide positive behavior supports.

(d) Upon notification of the incident to the local police department, the chief school administrator or his designees shall provide as much of the information described in this subsection as is available at the time of notification. However, the gathering of information shall not unnecessarily delay notification.

- (1) Whether the incident is in-progress or has concluded.
- (2) Nature of the incident.
- (3) Exact location of the incident.

- (4) Number of persons involved in the incident.
- (5) Names and ages of the individuals involved.
- (6) Weapons, if any, involved in the incident.
- (7) Whether the weapons, if any, have been secured and, if so, the custodian of the weapons.
- (8) Injuries, if any.
- (9) Whether EMS or the Fire Department were notified.
- (10) Identity of the school contact person.
- (11) Identity of the witnesses, if any.
- (12) Whether the incident involves a student with a disability and, if so, the type of disability and its impact on the student's behavior.
- (13) Other such information as is known to the school entity and believed to be relevant to the incident.

#### **§ 10.7. Response and handling of a student with a disability**

(a) A school entity shall provide to each local police department having jurisdiction over property of the school entity a copy of its procedures on behavior support services no later than September 30, 2012. Thereafter, a school entity shall provide to each local police department a copy of its procedures on behavior support services each time they are revised by the school entity.

(b) A school entity shall invite representatives of each local police department having jurisdiction over property of the school entity to participate in trainings in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention, as provided by the school entity's special education plan (*see* § 14.104 (relating to special education plans)) and the school entity's positive behavior support program (*see* § 14.133 (relating to positive behavior support)).

(c) When a student with a disability commits an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the

School Code (24 P.S. § 13-1303-A(b)(4.2)), the school entity shall respond in a manner that is consistent with the training provided in accordance with the school entity's special education plan and behavior support program (*see* § 14.104 (relating to special education plans)) and, if applicable, with the procedures, methods and techniques defined in the student's behavior support plan (*see* § 14.133 (relating to positive behavior support)).

(d) When a protected handicapped student commits an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)), the school entity shall respond in a manner that is consistent with the student's service agreement.

(e) For a student with a disability who has a positive behavior support plan, upon notification to a local police department that a student with a disability has committed an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)), a school entity shall act in accordance with § 14.133(h).

(f) For a protected handicapped student whose service agreement includes a positive behavior support plan, upon notification to a local police department that such a protected handicapped student has committed an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)), a school entity shall act in accordance with § 15.3 (relating to protected handicapped students—general).

(g) For a student with a disability who does not have a positive behavior support plan, upon notification to a local police department that a student with a disability has committed an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)), the school entity shall convene the student's IEP team. At this meeting, the IEP team shall consider whether a positive behavior support plan should be developed to address the student's behavior.

(h) For a protected handicapped student whose service agreement does not include a positive behavior support plan, upon notification to a local police department that such student has committed an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)), the school entity, in consultation with the student's parents, shall consider whether a positive behavior support plan should be developed as part of the service agreement to address the student's behavior.

## **§ 10.8. Emergency and nonemergency response and preparedness**

(a) Each school district, in cooperation with the local emergency management agency and the Pennsylvania Emergency Management Agency, annually shall develop and implement a comprehensive disaster response and emergency preparedness plan, as required by 35 Pa.C.S. § 7701(g) (relating to plans).

(b) A school district's comprehensive disaster response and emergency preparedness plan shall be consistent with the guidelines developed by the Pennsylvania Emergency Management Agency and other applicable state requirements, as required by 35 Pa.C.S. § 7701(g).

(c) In developing a comprehensive disaster response and emergency preparedness plan, a school district shall consider the framework presented in the National Incident Management System.

(d) A school district shall provide the emergency management agency of every county of which the school district is a part a copy of the district's comprehensive disaster response and emergency preparedness plan, as required by 35 Pa.C.S. § 7701(g).

(e) A school district shall provide to each local police department and each local fire department having jurisdiction over geographic territory of which the school district is a part a copy of the district's comprehensive disaster and response emergency preparedness plan.

(f) In an emergency, a school district shall follow the procedures outlined in its comprehensive disaster response and emergency preparedness plan, adopted pursuant to 35 Pa. C.S. § 7701(g).

(g) School entities shall furnish the following information to local police departments and local fire departments annually, no later than September 30, to assist local police and fire departments in responding to an emergency:

- (1) Blueprints or floor plans of the school buildings.
- (2) Aerial photo, map or layout of the school campus, adjacent properties and surrounding streets or roads.
- (3) Locations of predetermined or prospective command posts.
- (4) Current teacher/employee roster.
- (5) Current student roster.
- (6) Current school yearbook.
- (7) School fire-alarm shutoff location and procedures.

- (8) School sprinkler system shutoff location and procedures.
- (9) Gas/utility line layouts and shutoff valve locations.
- (10) Cable/satellite television shutoff location and procedures.
- (11) Other information the school entity deems pertinent to assist local police departments in responding to an emergency.

#### **§ 10.9. Notification to parents/guardians**

(a) A school entity shall immediately notify, as soon as practicable, the parent or guardian of a victim or suspect directly involved in an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)). In making the notification, the school entity shall inform the parent or guardian as to whether the local police department having jurisdiction over property of the school entity has been, or may be, notified of the incident.

(b) A school entity shall document attempts made to reach the parent or guardian of a victim or suspect directly involved in an incident listed under section 1303-A(b)(4.1) of the School Code (24 P.S. § 13-1303-A(b)(4.1)) or section 1303-A(b)(4.2) of the School Code (24 P.S. § 13-1303-A(b)(4.2)).