

DRAFT 12-17-20

MEMORANDUM OF UNDERSTANDING FOR THE SUFFOLK POLICE DEPARTMENT, SUFFOLK PUBLIC SCHOOLS, AND SUFFOLK DEPARTMENT OF SOCIAL SERVICES.

This MEMORANDUM OF UNDERSTANDING ("MOU") entered into this _____ day of _____, _____ by and among SUFFOLK PUBLIC SCHOOLS, the SUFFOLK POLICE DEPARTMENT, and SUFFOLK DEPARTMENT OF SOCIAL SERVICES, for the purpose of establishing guidelines for interviews of students by the Suffolk Police Department personnel and Social Services agencies.

RECITALS

WHEREAS, cooperation between the schools, law enforcement and social services is vital to school safety and the administration of justice. To these ends, Suffolk Public Schools, Suffolk Police Department, and Suffolk Department of Social Services desire to cooperate with each other, within the confines of the law and consistent with their respective legal responsibilities; and

WHEREAS, the goal of these guidelines is to provide Suffolk Public Schools, Suffolk Police Department, and Suffolk Department of Social Services with specific guidelines on interviewing students in the school setting, and to foster a cooperative relationship between all parties involved; and

WHEREAS, these guidelines should be supplemented with continued training to ensure that both student rights and the need for law enforcement and social services to conduct an effective investigation are protected.

SECTION I

INTERVIEWS OF STUDENTS BY SCHOOL OFFICIALS

Although school officials are charged with maintaining order and discipline in their schools, they are not acting as law enforcement agents nor shall they ever act as agents for the Suffolk Police Department. The Suffolk Police Department does not hold any responsibility for interviews of students conducted by Suffolk Public School employees.

SECTION II

NON-CUSTODIAL INTERVIEWS OF STUDENTS BY SCHOOL RESOURCE OFFICERS (SRO)

When acting on their own initiative and authority to further a proper educational environment at the school or at the request of school personnel (as opposed to acting upon the request of outside law enforcement authorities), school resource officers ("SRO") who are investigating a school related incident or any incident which may have

potential consequences for the safety of the students or employees at the school, may interview students without obtaining parental/guardian permission as prescribed by the Code of Virginia and policies of the Suffolk City School Board. Examples of incidents, which may have potential consequences for the safety of the students or employees at the school, include but are not limited to the following:

- a. Fights between students that may result in retaliation at school
- b. Threats made toward other students or employees of the school
- c. Gang related offenses
- d. Possessing drugs or weapons while on school property
- e. Sexual or physical abuse that has occurred at home or away from the school

SRO'S will always follow Suffolk Police Department policy as it relates to the questioning of juveniles (Policy 3-8, Section VII, page 8) and Virginia Code Section 16.1-247.1.

SECTION III

NON-CUSTODIAL INTERVIEWS OF STUDENTS BY SUFFOLK POLICE OFFICERS AT SCHOOL FOR LAW ENFORCEMENT PURPOSES

A. Suffolk Police Officers will follow all laws of the Commonwealth of Virginia, the Suffolk Police Department Policies and Procedures, and this Memorandum of Understanding when conducting non-custodial interviews of students at school for law enforcement purposes. When a Suffolk Police Officer seeks or is requested by a school official to conduct a non-custodial interview of a student at a Suffolk Public School for a law enforcement purpose, the following procedure shall apply:

1. The Suffolk Police Officer shall, upon arrival at the school, contact the building principal or other designated school official, and identify or confirm the student to be interviewed.
2. The Suffolk Police Officer making the request for the interview shall provide the school official with his or her name, rank and police I.D. number. The Suffolk Police Officer upon request will provide the school official with their proper police credentials to include their badge and photo I.D. card (If not in uniform). The Suffolk Police Officer upon request will allow the school official to view any criminal warrants, or subpoenas that are pertinent to the interview or interrogations and that are not sealed or confidential in nature. (Copies of official documents shall not be made by school officials).
3. When interviewing students at a Suffolk Public School, who have not been taken into custody, all Suffolk Police Officers will follow the terms and conditions set forth in this Memorandum of Understanding. If the student refuses to speak to Suffolk Police Officers at school, the student interview may not proceed on school grounds.
4. It is also the responsibility of the Suffolk Police Officer along with school officials

to ensure that every attempt has been made to contact the student's parents/guardians before Suffolk Police are allowed to conduct a non-custodial student interview on school property. All attempts to contact a student's parents/guardians should be documented. If the parent/guardian conditions consent on being present, then absent exigent circumstances the student interview should be delayed until the parent/guardian arrives.

5. Once documented notifications have been attempted, but those attempts were unsuccessful in reaching a parent/guardian, it is within the sound discretion of the Suffolk Police Officer whether or not to proceed with the non-custodial student interview in the absence of a parent/guardian.
6. If it is determined that a non-custodial student interview should proceed in the absence of a parent/guardian, a the building principal or his/her designee standing in *loco parentis* is allowed to remain in the room but only as an observer while the Suffolk Police Officer conducts the student interview. The building principal or his/her designee is not to interfere in anyway whatsoever with the interview process. Should the Suffolk Police Officer be of the opinion that the presence of the building administrator or his/her designee substantially disrupts the interview process, the Suffolk Police Officer can request that the building administrator or his/her designee immediately leave the interview. Should the building principal or his/her designee voice an objection when asked to leave the interview room, the interview is temporarily suspended to allow the building principal or his/her designee an opportunity to seek review of this determination by the assigned Captain of the Suffolk Police Department. However, if the building principal or his/her designee fails to voice an objection when asked to leave the interview room, the interview may proceed in the absence of a building principal or his/her designee. Where the student is a crime victim the interview may proceed at the discretion of the Suffolk Police Officer without the presence of a building principal or his/her designee.
7. However, there may be extenuating circumstances when notification to a parent/guardian may not be made. Below is a list of the extenuating circumstances that will allow for student interviews without notification to the student's parent/guardian:
 - a. If there is a delay in the interview, the delay may pose imminent danger to the safety of the students, school employees, or other persons in the community.
 - b. The parents are involved in the crime in question.
 - c. A delay would result in the destruction of evidence or flight of the offender.
8. All non-custodial student interviews will be conducted in a private setting.

B. Absent extenuating circumstances (e.g. preventing destruction of evidence of a serious crime or preventing flight from the jurisdiction by a student suspected of serious criminal activity, abuse victims, or sibling witnesses in abuse cases) students involved in matters that are not school related offenses should be interviewed off of school property. Whenever there are extenuating circumstances and the interview must take place on school property, the above listed procedures set out in Section III apply.

SECTION IV

ARREST AND REMOVAL OF STUDENTS FROM SCHOOL BY SUFFOLK POLICE OFFICERS AND USE OF PHYSICAL RESTRAINT

- A. Suffolk Police Officers are authorized to make an arrest on school grounds with or without an arrest warrant, as long as probable cause exists that the individual has committed a crime. When making a lawful arrest, Suffolk Public Schools agrees to cooperate with the Suffolk Police Department to ensure the safety of all.
- B. Any Suffolk Police Officer who arrests a student at a Suffolk Public School should take the student into custody in a manner, which minimizes disruption to the school. Upon arrest of the student, the Suffolk Police Officer will notify the student's parents pursuant to Suffolk Police Department Policy. Suffolk Public Schools may make notifications once Suffolk Police Officers have advised them it is safe to do so or the Suffolk Police have already made the notification.
- C. When taking a juvenile into custody, the Suffolk Police Officers shall follow Suffolk Police Department Policy and Procedure 3-8 Juvenile Operations, Section V Taking Juveniles into custody.
- D. Students involved in any criminal investigation that fall under custody and interrogation will be read their Miranda Warnings and can invoke their rights at anytime.
- E. Questioning of students taken into custody should not be conducted at school but as provided for in Section VII of the Suffolk Police Department Policy and Procedure Manual, Juvenile Operations, Number 3-8, pages 8 and 9, which are attached hereto as Exhibit 'A' and Virginia Code Section 16.1 – 247.1.
- F. Suffolk Police Officers are only permitted to make use of physical restraint on a student consistent with best practices of law enforcement personnel.

Section V

INTERVIEWS OF CHILDREN SUSPECTED OF BEING ABUSED AND NEGLECTED

- A. If the Suffolk Police Department and employees of the Department of Social Services seek to interview at school, such as a student suspected of being abused or neglected, they shall make the request through the building's principal or designee. Suffolk Public Schools shall provide reasonable access (without a court

order) to a suspected victim of child abuse or neglect for the purpose of interviewing the student and any other witnesses such as family members or siblings.

- B. If the interview takes place based on a court order, the principal or designee may request a copy of that order. The presence of the principal or his designee at an in-school interview shall be at the discretion of the investigating Suffolk Police Officer and the Social Service employee.
- C. Following the interview, only the investigating Suffolk Police Officer or their designee will notify the parents of the student of the interview. The entire investigation can be jeopardized and the safety of the student is at risk if non-police notifications are made.
- D. For additional information relative to handling child abuse or neglect cases between Suffolk Public Schools and the Department of Social Services, refer to the local agreement between Suffolk Public Schools and the Department of Social Services.

SECTION VI

PHYSICAL EXAMINATION OR PHOTOGRAPHING OF CHILDREN SUSPECTED OF BEING ABUSED OR NEGLECTED

- A. If the Suffolk Department of Social Services or the Suffolk Police Department seeks to physically examine or photograph a student at school who is suspected of being abused or neglected, the physical examination or photograph of the student will proceed as provided for by Virginia Code Section 63.2-1520 (1950), as amended.
- B. The physical examination and/or photograph of a student, who is suspected of being abused or neglected, is permitted without there being a court order. The presence of the principal or their designee at the photographing or the examination is at the sole discretion of the Suffolk Department of Social Services and/or the investigating Suffolk Police Officer.
- C. Following the examination and/or photographs of the abused or neglected student, the investigating Police Officer will be solely responsible for notifying the student's parents or guardians, if deemed appropriate. Any other premature notifications can hinder the investigation and place the victim at further risk.

SECTION VII

TEMPORARY PROTECTIVE CUSTODY OF CHILDREN BY SUFFOLK POLICE OFFICERS OR SUFFOLK DEPARTMENT OF SOCIAL SERVICES.

If a Suffolk Police Officer assumes temporary custody of a student at school, pursuant to a court order issued by the Suffolk Juvenile and Domestic Relations Court, or if a Suffolk

Police Officer or a Suffolk Department of Social Service employee assumes temporary protective custody pursuant to Virginia Code Section 63.2-1517, they shall show the principal or their designee the documentation, but will not allow any copies to be made or kept due to the sensitive nature of the documents.

SECTION VIII
JUDICIAL PROCEEDINGS

All Suffolk Public School employees will testify fully in any judicial proceeding and shall comply with State and Federal law when served with court orders and subpoenas.

Agreed to this _____ day of _____ 20 _____

Witness the following Signatures

SUFFOLK POLICE DEPARTMENT

Alfred Chandler
Interim Chief of Police

CITY OF SUFFOLK PUBLIC SCHOOLS SUPERINTENDENT

Dr. John B. Gordon, III
Suffolk School Superintendent

SUFFOLK DEPARTMENT OF SOCIAL SERVICES

Harry Cromer
Interim Director of Social Services

CITY OF SUFFOLK

Albert S. Moor, II
Interim City Manager

ATTEST:

Erika S. Dawley, City Clerk

APPROVED AS TO FORM:

Helvi L. Holland
City Attorney

APPROVED AS TO FORM:

Wendell M. Waller
School Board Attorney