

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE PHILADELPHIA SCHOOL DISTRICT,
THE PHILADELPHIA POLICE DEPARTMENT,
THE PHILADELPHIA DEPARTMENT OF HUMAN SERVICES,
THE PHILADELPHIA DISTRICT ATTORNEY'S OFFICE,
THE PHILADELPHIA COURT OF COMMON PLEAS,
FAMILY COURT,
THE DEPARTMENT OF BEHAVIORAL HEALTH AND
INTELLECTUAL DISABILITIES SERVICES,
THE DEFENDER ASSOCIATION OF PHILADELPHIA, AND ~~THE~~
~~PENNSYLVANIA DEPARTMENT OF PUBLIC WELFARE~~
REGARDING THE
PHILADELPHIA DELINQUENCY DIVERSION PROGRAM**

PURPOSE

This Memorandum of Understanding is entered into between the Philadelphia School District (hereinafter referred to as the District), the Philadelphia Department of Human Services (hereinafter referred to as DHS), the Philadelphia District Attorney's Office (hereinafter referred to as DAO), the Philadelphia Police Department (hereinafter referred to as the PPD), the Court of Common Pleas, Family Court, Philadelphia County (hereinafter referred to as the Court), the Department of Behavioral Health and Intellectual Disability Services, the Defender Association of Philadelphia, and the ~~Pennsylvania Department of Public Welfare~~ for the purposes of establishing a cooperative relationship and the implementation of a Delinquency Diversion Program between community agencies (hereinafter referred to as the parties) involved in the handling of students alleged to have committed delinquent acts on or about Philadelphia school premises. The parties acknowledge that it may be in the best interest of students that certain summary and misdemeanor delinquent acts, defined herein as "focused acts," be handled by the school system, in conjunction with the parties, without the filing of a delinquency complaint with the Court.

WHEREAS, the parties acknowledge and agree that decisions affecting the filing of a delinquency complaint against a student, whether to place restraints on a student* and/or place a student in a secure facility should not be taken lightly. As such, a transparent and cooperative agreement delineating the responsibilities of each party, when making a decision whether to divert a student from the Criminal Justice System is necessary and would promote the best interest of the involved students, the School System, other students and the greater community.

WHEREAS, the parties acknowledge and agree that this Memorandum of Understanding is a cooperative effort among the public agencies named herein to establish guidelines for the handling of school related delinquent acts against public disorder which are defined herein as "focused acts." The parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the handling of students who have committed one of the focused acts, as described herein, while simultaneously ensuring that each case is addressed on a case-by-case basis to promote a response proportional to the various and differing factors affecting each student's case.

WHEREAS, the parties acknowledge and agree that the manner in which each case or incident is handled by the parties is dependant upon the many factors unique to each student that includes, but is not limited to, the student's background, present circumstances, disciplinary record, academic record, general demeanor and disposition towards others, emotional stability, and other factors. Therefore, the parties acknowledge that students involved in the same or similar incidents may receive different and varying responses depending on the factors and needs of each student.

WHEREAS, the parties acknowledge and agree that while students may receive different and varying responses depending on the factors and needs of each student, the

decision whether to divert a student from the Juvenile/Criminal Justice System shall not be based upon the student's race, ethnicity, color, sex, sexual orientation, gender identity, religion, national origin, ancestry, age, disability (or a perception of such disabilities), marital status, familial status, genetic information, domestic or sexual violence victim status or because of an association with a member of any of these protected classes.

NOW THEREFORE, the parties hereby agree to the following terms and conditions for the diversion of certain Philadelphia school students from the Juvenile/Criminal Justice System

I. Definitions

As used in this Agreement, the term:

- A. "Student" means a child under the age of 18 years currently enrolled in the Philadelphia School System.
- B. "Crime" means delinquent act or summary offense.
- C. "Delinquency Diversion Intake Center" means a co-location where representatives of DHS, the District, and the PPD will receive calls from officers in the field and who will have immediate access to student records to assist in determining the eligibility of students for diversion.
- D. "Focused Acts" means those summary and misdemeanor offenses limited to Pennsylvania Crimes Code § 912 Possession of Weapon on School Property, other than firearm, shotgun or rifle, §3503 Criminal Trespass, §5502 Failure of Disorderly Persons to Disperse upon Official Order, §5503 Disorderly Conduct, including both summary and misdemeanor level offenses, §5507 Obstruction of Highways and other Passageways, including both summary and misdemeanor level offenses, and Pennsylvania Controlled Substance, Drug, Devises and Cosmetic Act §780-113(16) Knowing and Intentional Possession of a Controlled Substance or Counterfeit Substance.

II. Terms of Agreement

- A. The parties understand and agree that a first time offense of a summary and/or misdemeanor "focused act," as defined herein, may not result in an arrest and/or filing of a delinquency complaint against a student, under the following conditions:
 - 1. Information provided by the school does not warrant juvenile justice assessment of the student,
 - 2. Information provided by DHS does not warrant juvenile justice assessment of the student,

3. The student and student's family agree to the terms and condition of the Delinquency Diversion Program set forth by the Department of Human Services.

B. Philadelphia School District (District)

1. The District understands and agrees that the effectiveness of the Delinquency Diversion Program is dependent upon the sharing of and/or access to certain student information. The District agrees that the Delinquency Diversion Program will help to insure that misconduct is swiftly and certainly addressed, and that the safety of all students and staff will be the paramount concern. The decision to divert must be made only after due consideration has been given to all of the relevant information about the student. Therefore, the District shall, to the extent permitted by law, provide student information, and consult and/or assist the Delinquency Diversion Program Intake Center in making final diversionary decisions.
2. The District understands and agrees that all School Police Officers (SPO) will be made aware of this Agreement and must act accordingly when responding to possible delinquent acts committed by students on or about District property.
3. The District understands and agrees that the responsibilities of the School Police Officers (SPO), under this Agreement, shall be as follows:
 - a. SPOs will contact the PPD, if probable cause is established that a student under the age of ten (10) years of age has committed a crime, but the student shall not be arrested. The role of the PPD under these circumstances is to document the incident and confiscate any weapon or contraband. The SPO shall direct the incident, along with the student, to the appropriate Principal for administrative action.
 - b. If probable cause is established that a student ten (10) years of age or older has committed a possible crime, the PPD shall be contacted.
 - c. Upon arrival of a PPD officer, the SPO shall consult with the PPD officer and assist PPD in interviewing the involved parties, and consulting with the student's teacher, counselor or advisor to determine whether the student is preliminarily eligible for the Delinquency Diversion Program.
 - d. If, after reviewing all the facts and circumstances, it is determined that the alleged offense is a disciplinary infraction only, as opposed to a delinquent act, the incident and all paperwork will be forwarded to the Principal for the appropriate administrative action.

C. Philadelphia Police Department (PPD)

1. The PPD understands and agrees that the effectiveness of the Delinquency Diversion Program is incumbent upon the proper staffing of the Delinquency Diversion Program Intake Center and that the Intake Center must be accessible during school hours and staffed with personnel with arrest powers and the lawful authority to access criminal record information. Therefore, the PPD agrees that it will staff the Delinquency Diversion Program Intake Center with two (2) certified Police Officers during school hours throughout the term of this Agreement.
2. The PPD understands and agrees that all PPD officers responding to delinquent acts occurring on or about District property will be made aware of this Agreement and act accordingly when responding to possible delinquent acts committed by students.
3. The PPD understands and agrees that the responsibilities, under this Agreement, of the PPD officers responding to alleged delinquent acts on or about District property shall be as follows:
 - a. PPD officers shall respond to calls by SPOs regarding possible delinquent acts committed by students on or about District property.
 - b. PPD officers will consult with the SPO, the student's teacher, counselor or advisor, interview all the parties and based upon the totality of this information, make a determination whether the student appears preliminarily eligible for the Delinquency Diversion program.
 - c. If the alleged offense is not a focused act, as described herein, or the student's record, demeanor and/or disposition towards others could create a hazard requiring detention to protect the person or property of others or the student or the treatment, supervision and/or rehabilitative needs of the student require it, the student shall be arrested and processed according to the standard departmental policies and the arresting officer shall complete all necessary PPD paperwork.
 - d. If the responding PPD officer determines that the student is preliminarily eligible for the Delinquency Diversion Program, the PPD officer shall contact the Delinquency Diversion Program Intake Center to determine if the student is currently under Court Supervision (*i.e. probation*) or otherwise eligible for diversion.
 - e. If the PPD officer receives confirmation from the Delinquency Diversion Program Intake Center that the student is otherwise ineligible for the Delinquency Diversion program, the student will be arrested and processed according to standard departmental policies and the officer will complete all necessary PPD paperwork.

- f. If the officer receives confirmation from the Delinquency Diversion Program Intake Center that the student is eligible for the Delinquency Diversion Program, the officers shall release the student and complete all necessary paperwork.
- g. If after reviewing all the facts and circumstances, it is determined that the alleged offense is a disciplinary infraction only, as opposed to a delinquent act, the incident and all paperwork will be forwarded to the Principal for the appropriate administrative action.
- h. The PPD will provide reports to the Court and Community Services Committee every 90 days indicating the number of students diverted, the would be charges and the plan of action. The report will also identify any challenges faced by diverting officers related to information sharing, etc.

D. Department of Human Services (DHS)

- 1. The DHS understands and agrees that the effectiveness of the Delinquency Diversion Program is dependent upon the sharing of and/or access to certain student information.
- 2. The decision to divert must be made only after due consideration has been given to all of the relevant information about the student. Therefore, DHS shall, to the extent permitted by law, provide student information, and consult and/or assist the Delinquency Diversion Program Intake Center in making final diversionary decisions.
- 3. DHS understands and agrees that the effectiveness of the Delinquency Diversion Program is incumbent upon the proper staffing of the Delinquency Diversion Program Intake Center and that the Intake Center must be accessible during school hours and staffed with DHS personnel with adequate resources and equipment to access student's records, juvenile court files, and any other available records necessary to assist in the diversion decision processes. Therefore, DHS agrees that it will staff the Delinquency Diversion Program Intake Center with two (2) DHS employees during school hours throughout the term of this Agreement.
- 4. DHS understands and agrees that the DHS personnel assigned to the Delinquency Diversion Program Intake Center shall notify DHS when a student is eligible for diversion.
- 5. DHS understands and agrees that upon notification by the Delinquency Diversion Program Intake Center, it shall coordinate and conduct home visits with the student and his or her family within seventy two (72) hours from the time notified by the Delinquency Diversion Program Intake Center to discuss the Diversion Program and the Program's terms and conditions.

6. DHS understands and agrees that if the student and his or her family do not agree to the terms and conditions of the Diversion Program, the student will no longer be eligible for any possible future diversion and the Delinquency Diversion Program Intake Center shall be notified of this fact, in writing.

E. District Attorney's Office

The Philadelphia District Attorney's Office (DAO) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the DAO agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

F. Court of Common Pleas, Family Court, Philadelphia County (Court)

The Court understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the Court agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

G. Department of Behavioral Health and Intellectual Disability Services

The Department of Behavioral Health and Intellectual Disability Services (DBHIDS) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the DBHIDS agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

H. Defender Association of Philadelphia

The Defender Association of Philadelphia (Defender Association) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the Defender Association agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.

I. Pennsylvania Department of Public Welfare

~~The Pennsylvania Department of Welfare (DPW) understands and agrees the Delinquency Diversion Program for focused acts, as described herein, is consistent with the protection of the public interest, to provide for children committing delinquent acts programs of supervision, care and rehabilitation which provide balanced attention to the protection of the community, the imposition of accountability for offenses committed and the development of competencies to enable children to become responsible and productive members of the community. Therefore, the DPW agrees to assist and support the parties to this Agreement in the development, implementation and continued operation of the Delinquency Diversion Program throughout the term of this Agreement.~~

III. **Duration and Modification of Agreement**

This Agreement shall become effective immediately upon its execution by signature and shall remain in force and effect until such time as terminated by any party to the Agreement. The Agreement may be modified at any time by amendment to the Agreement. The parties agree to meet quarterly to provide oversight of the Agreement and make recommendations to the heads of each agency on any modifications to the Agreement.

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