

RELATIONSHIP WITH LAW ENFORCEMENT

Administrative Regulation Code: 5120R

PRINCIPALS' PROTOCOL FOR REPORTING AND COOPERATING WITH LAW ENFORCEMENT AND DSS

Section I Protocol Goals:

- To provide a uniform, systematic, and structured approach for 1) reporting possible child abuse and/or other criminal acts, 2) sharing information with DSS and law enforcement, and 3) cooperating with law enforcement to complete all necessary investigations.
- To provide concise procedures for school officials to follow based upon specific scenarios to keep students safe.

Section II Reporting Possible Child Abuse Occurring Outside the School Context to DSS

{Note to Principals: Any and all possible abuse (or neglect) of a child by any adult MUST be immediately reported to DSS without exception. This protocol and the checklist below address the reporting to law enforcement and DSS of possible abuse or assault committed against students by 1) school employees, 2) school volunteers and 3) any third-parties using school facilities.}

Once DSS and/or law enforcement begin a child abuse investigation, school officials may share any confidential student information that DSS needs to investigate a claim of abuse or neglect committed by an adult. Per authority under Federal law (the Child Abuse Prevention and Treatment Act or "CAPTA"), DSS and law enforcement do not need subpoenas nor does any request for information have to fit the health and safety exception under FERPA. Likewise, confidential personnel information can be disclosed to DSS as part of an investigation of child abuse without a subpoena.

Principals should simply request and make a record of the name and identification or badge number of the DSS or law enforcement official requesting the information as part of a child abuse or neglect investigation. A separate protocol will be established by DSS and the school system to promote the efficient flow of information in accordance with CAPTA.

If DSS determines that the matter does not fit the definition of child abuse or neglect under state statutes, DSS will notify principals in writing and Principals should follow the checklist below when providing law enforcement with confidential student or employee information beyond any initial oral report.

Section III Principal's Checklist for Reporting Possible Criminal Acts Occurring Within the School Context

{Note to Principals: In making an initial report to the SRO, a full oral report of all essential information regarding any possible criminal matter must be made. Prior to conducting any investigation and/or providing documents to law enforcement, consult and follow the checklist requirements as listed. For questions or for clarification please call the Superintendent or Superintendent's designee.}

	<i>Adult on Student sexual offense or assault and physical assault</i>	<i>Student on Student sexual offense or assault and physical assault</i>	<i>Any Other Possible Criminal Offenses (including all other "Reportable Offenses")</i>
<i>Reporting</i>	<input type="checkbox"/> Principal to immediately report to DSS, SRO and Superintendent or Designee. <input type="checkbox"/> All school employees and volunteers must make an immediate report to Principal or SRO if Principal not immediately available. <input type="checkbox"/> School officials should not gather additional information or interview possible witnesses until the SRO notifies the Principal regarding the investigation process as outlined below.	<input type="checkbox"/> Principal to immediately report to SRO and Superintendent or Designee. <input type="checkbox"/> All school employees and volunteers must make an immediate report to Principal or SRO if Principal not immediately available. <input type="checkbox"/> If sexual offense or assault Principal must also report to Title IX Coordinator <input type="checkbox"/> Principal may report to School Counselor or Social Worker as needed <input type="checkbox"/> School officials should not gather additional information or interview possible witnesses until the SRO notifies the Principal regarding the investigation process as outlined below.	<input type="checkbox"/> If possible criminal misconduct, school employees and volunteers must report to Principal who must report to SRO and Superintendent or Designee. <input type="checkbox"/> If not criminal ¹ , Principal will investigate and act as needed <input type="checkbox"/> School officials should not gather additional information or interview possible witnesses until the SRO notifies the Principal regarding the investigation process as outlined below.
<i>Student Documents</i>	<input type="checkbox"/> Provide all student directory information immediately to law enforcement and/or DSS (See #3 below) <input type="checkbox"/> Provide any other info for health safety emergency & document in student file (See #4 below) <input type="checkbox"/> Provide any other student info to law enforcement with parental permission <input type="checkbox"/> School attorney will work with D.A. to provide	<input type="checkbox"/> Provide all student directory information immediately to law enforcement (See #3 below) <input type="checkbox"/> Provide any other info for health safety emergency & document in student file (See #4 below) <input type="checkbox"/> Provide any other student info to law enforcement with parental permission <input type="checkbox"/> School attorney will	<input type="checkbox"/> Provide all student directory information upon request to law enforcement (See #3 below) <input type="checkbox"/> Provide any other info for health safety emergency & document in student file (See #4 below) <input type="checkbox"/> Provide any other student info to law enforcement with parental permission <input type="checkbox"/> School attorney will work with D.A. to provide

¹ NOTE: Principals must use common sense discretion on what is "possibly criminal". For example, a student losing a five dollar bill during P.E. class could "possibly" involve someone stealing the money. However, the SRO need not be notified in such a circumstance. The Principal and SRO should have a proactive discussion regarding "what" needs to be reported initially.

	<i>Adult on Student sexual offense or assault and physical assault</i>	<i>Student on Student sexual offense or assault and physical assault</i>	<i>Any Other Possible Criminal Offenses (including all other "Reportable Offenses")</i>
	any other needed information	work with D.A. to provide any other needed information	any other needed information
<i>Employee Documents</i>	<input type="checkbox"/> Provide all N.C.G.S. §115C-320 public information as needed (See # 5 below) <input type="checkbox"/> Provide confidential employee file per subpoena or court order <input type="checkbox"/> School attorney will work with D.A. to provide all needed information	<input type="checkbox"/> N/A	<input type="checkbox"/> Provide all N.C.G.S. § 115C-320 public information as needed (See # 5 below) <input type="checkbox"/> Provide confidential employee file per subpoena or court order <input type="checkbox"/> School attorney will work with D.A. to provide all needed information
<i>Cooperation with Law Enforcement</i>	<input type="checkbox"/> Normally employee will be suspended with pay by HR to allow investigation <input type="checkbox"/> Volunteer will be removed from service <input type="checkbox"/> SRO will consult with Special Investigation Unit as needed regarding whether the investigation will be 1) law enforcement only or 2) law enforcement and school officials and will immediately notify the school Principal <input type="checkbox"/> If a joint investigation, see attached best practice guide for SROs <input type="checkbox"/> If law enforcement only, Special Investigations Unit will notify SRO, Principal and HR as soon as investigation is complete <input type="checkbox"/> DA's office and DSS will work with school attorney to share investigation information via court order or otherwise on a case-by-case basis <input type="checkbox"/> School attorney will	<input type="checkbox"/> Normally student will be short term suspended (maximum of 10 days) to complete investigation and provide for a due process hearing if long-term suspension is warranted. <input type="checkbox"/> SRO will consult with Special Investigation Unit as needed regarding whether the investigation will be 1) law enforcement only or 2) law enforcement and school officials and will immediately notify the school Principal <input type="checkbox"/> If a joint investigation, see attached best practice guide for SROs <input type="checkbox"/> If law enforcement does not want the direct involvement of school officials, the Title IX Coordinator or Designee will be permitted to observe interviews and will be provided with an update from law enforcement as deemed	<input type="checkbox"/> Employee and Volunteer may be suspended with pay by HR to allow investigation <input type="checkbox"/> Student may be short term suspended (maximum of 10 days) to complete investigation and provide for a due process hearing if long-term suspension is warranted. <input type="checkbox"/> SRO will notify Principal regarding whether the investigation will be 1) law enforcement only, 2) law enforcement and school officials, or 3) school officials only <input type="checkbox"/> Principal and SRO are encouraged to determine the level of SRO involvement on a case-by-case basis. See attached best practice guide for SROs

	<i>Adult on Student sexual offense or assault and physical assault</i>	<i>Student on Student sexual offense or assault and physical assault</i>	<i>Any Other Possible Criminal Offenses (including all other "Reportable Offenses")</i>
	notify DA anytime an employee who is charged or under investigation requests a due process hearing	appropriate by the DA	
<i>Communications with Parents</i>	<input type="checkbox"/> Principal will coordinate with SRO regarding individual notifications to parents and parent follow-ups <input type="checkbox"/> Superintendent's designee will coordinate with DA's office regarding group or school-wide notifications to parents and/or parent meetings	<input type="checkbox"/> Principal will coordinate with SRO regarding individual notifications to parents and parent follow-ups <input type="checkbox"/> Superintendent's designee will coordinate with DA's office regarding group or school-wide notifications to parents and/or parent meetings	<input type="checkbox"/> Principal will coordinate with SRO regarding individual notifications to parents and parent follow-ups <input type="checkbox"/> Superintendent's designee will coordinate with DA's office regarding group or school-wide notifications to parents and/or parent meetings <input type="checkbox"/> If no possible criminal offense, communicate as needed
<i>Threat and Risk Assessment</i>	<input type="checkbox"/> Not Applicable	<input type="checkbox"/> Principal should contact school Social Worker, Counselor, or Director of Student Services to determine need for assessment	<input type="checkbox"/> Principal should contact school Social Worker, Counselor, or Director of Student Services to determine need for assessment

General Terms & Guidelines

1) SRO

"School Resource Officer" or "SRO" means a sworn law enforcement officer who is authorized to carry-out law enforcement activities at all times and to assist school officials in investigations under certain circumstances as provided above.

2) "Reportable Offenses"² per N.C.G.S. §115C-288(g) and State Board Policy:

{*Note to Principals: The following definition of "reportable offenses" is based on State law and State Board of Education policy. The checklist above is much broader than State law and requires reporting to the SRO and DSS whenever the Principal has any information that a crime may have been committed}

² For a detailed description of each offense, see <http://www.ncpublicschools.org/research/discipline/offenses/>

When the Principal has personal knowledge or actual notice from school personnel that an act has occurred on school property, involving one of the following, law enforcement must be notified by statute and State Board Policy:

- (1) Assault Resulting in Serious Personal Injury
- (2) Assault Involving Use of a Weapon
- (3) Assault on School Officials, Employees, and Volunteers
- (4) Making Bomb Threats or Engaging in Bomb Hoaxes
- (5) Willfully Burning a School Building
- (6) Homicide
- (7) Kidnapping
- (8) Unlawful, underage sales, purchase, provision, possession, or consumption of alcoholic beverages
- (9) Possession of Controlled Substance in Violation of Law
- (10) Possession of a Firearm
- (11) Possession of a Weapon
- (12) Rape
- (13) Robbery with a Dangerous Weapon
- (14) Sexual Assault (not involving rape or sexual offense)
- (15) Sexual Offense
- (16) Taking Indecent Liberties with a Minor

3) Student Directory Information under FERPA:

The Board designates the following student record information as directory information which can be shared with DSS and Law Enforcement proactively or upon request without a subpoena or court order as stated in the checklist.

- (1) Name (including name of parent/guardian);
- (2) Address;
- (3) Telephone listing;
- (4) Date and place of birth;
- (5) Major field of study;
- (6) Participation in officially recognized activities and sports;
- (7) Weight and height of members of athletic teams;
- (8) Dates of attendance (including daily attendance);
- (9) Degrees and awards received; and
- (10) Most recent previous educational agency or institution attended.

{*Note to Principals: Parents have the right to opt-out of allowing school officials to disclose directory information at the beginning of the school year.}

4) Health and Safety Exception for Confidential Student Records under FERPA:

Again, under CAPTA, DSS and law enforcement do not need a subpoena to obtain confidential student information when conducting an investigation of possible child abuse. (See Section II

above). In other cases involving law enforcement and student records, school officials must comply with FERPA. Each time confidential student information or student interviews are requested, school officials and law enforcement/DSS will jointly complete the attached ACS form entitled "Request for Confidential Student Information/Records." This form has been agreed to by law enforcement and DSS.

Disclosure without a subpoena and without parental permission can be made when a school official, taking into account the totality of circumstances, determines there is an articulable and significant threat to the health or safety of the student or other individuals. The disclosure permitted under this exception is to persons whose knowledge of the information is necessary to protect the health or safety of the student or other individuals and would clearly include law enforcement. The school official must have a "rational basis" which means direct knowledge of a threat to health or safety or indirect knowledge provided by a third party, including the professional opinion of law enforcement that the information is necessary to protect the health and/or safety of the student or other individuals.

The same day as any disclosure of information under this exception, the school official must comply with Federal law ("FERPA") and create, or obtain, and submit the following documentation to the student's cumulative record: 1) the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure; and 2) the parties to whom school officials disclosed the information. Law enforcement and DSS have agreed to provide specific support orally or in writing to assist school officials in documenting why disclosure was appropriate under this exception.

5) Employee Public Information per N.C.G.S. § 115C-320:

The following personnel information may be disclosed publically and can be shared with Law Enforcement proactively or upon request without a subpoena or court order as stated in the checklist:

- (1) Name;
- (2) Age;
- (3) Date of original employment or appointment;
- (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the Board has the written contract or a record of the oral contract in its possession;
- (5) Current position;
- (6) Title;
- (7) Current salary;
- (8) Date and amount of each increase or decrease in salary with that local Board of Education;
- (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that local Board of Education;
- (10) Date and general description of the reasons for each promotion with that local Board of Education;
- (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the local Board of Education. If the disciplinary action was a dismissal, a

copy of the written notice of the final decision of the local Board of Education setting forth the specific acts or omissions that are the basis of the dismissal; and

(12) The office or station to which the employee is currently assigned.

{*Note to Principals: The Superintendent and/or Board of Education are authorized to disclose necessary confidential personnel file information to law enforcement under certain circumstances. If law enforcement requests personnel file information outside of the list above, the school attorney should be notified immediately and will work with the District Attorney to provide full disclosure of all needed information.}

6) Disclosure of Student Records per Subpoena and notification to Parent/Guardian

Again, under CAPTA, DSS and law enforcement do not need a subpoena to obtain confidential student information when conducting an investigation of possible child abuse. (See Section II above). In other cases involving a subpoena, such as child custody disputes, school officials must comply with FERPA. Each time confidential student information or student interviews are requested, school officials and law enforcement/DSS will jointly complete the attached ACS form entitled "Request for Confidential Student Information/Records." This form has been agreed to by law enforcement and DSS.

Under FERPA, school officials must make a good faith effort to notify the parent/guardian (or eligible student) prior to complying with any subpoena for student records. Once notification is made (or attempted) the school official can comply with the subpoena and the parent or student cannot stop disclosure without Court action. A record of the subpoena and notification to the parent/guardian or eligible student must be maintained in the student's cumulative record. Principals must notify Student Services regarding any subpoena for student records.

7) Disclosure of Employee Records per Subpoena and notification to Employee

Again, under CAPTA, DSS and law enforcement do not need a subpoena to obtain confidential employee information when conducting an investigation of possible child abuse. (See Section II above). In other cases involving a subpoena for employee records school officials must comply with a lawfully served subpoena. Unlike student records, however, employees have no right to be notified in advance of a subpoena for their personnel records. Principals must notify HR regarding any subpoena for employee records and consult with HR on whether the employee will be notified. If the subpoena (or court order) is from law enforcement, the SRO will make the decision as to whether the employee is to be notified.

8) Interviews of Students by DSS Regarding Non-School Related Abuse or Neglect and Interviews of Students by Law Enforcement Regarding Non-School Related Misconduct

An SRO may assist a school official by conducting a joint student interview related to a school matter as discussed below (see "Best Practice Guide for Involvement of SROs" below). However, anytime a DSS official or a law enforcement officer (including SROs when acting in their law enforcement capacity) ask to interview a student at school regarding a non-school related matter, school officials may "request" that interviews take place at a different time for legitimate educational reasons (i.e. due to testing).

If DSS or law enforcement need immediate access to the student, the school officials must honor the final decision of the DSS investigator or law enforcement officer regarding student interviews. School officials can provide contact information for parents if the DSS investigator or law enforcement official determines that parental permission is needed for the interview. School officials cannot give parental permission and are not responsible for knowing whether such permission is required by law in these circumstances. School officials should not participate in these interviews unless requested by DSS or law enforcement. Any request to interview a student should be directed to the school main office and school officials will arrange an appropriate place for the interview. The DSS or law enforcement officer will provide the school official with their name and badge number. Each time confidential student information or student interviews are requested, school officials and law enforcement/DSS will jointly complete the attached ACS form entitled "Request for Confidential Student Information/Records." This form has been agreed to by law enforcement and DSS.

9) Joint Interviews and Searches of Students by School Officials and SROs Regarding School Related Misconduct

School officials (including SROs acting in that capacity) may jointly detain, question and search a student based upon the lesser standard of "reasonable suspicion" regarding school related misconduct.

Prior parental permission is NOT required to question students and obtain statements in these circumstances. In addition, prior parental permission is NOT required for a search of a student's locker or vehicle when on campus. However, prior to an involuntary search of a student's person or belongings by school personnel, the school official must make a good faith effort to notify the parent/guardian to allow them to be present. If the parent/guardian requests to be present, the school official will use their discretion as to whether or not to wait to allow them to be present. When acting jointly with school officials regarding a school matter (as opposed to a criminal investigation), SROs should follow the same procedures as school officials. However, anytime an SRO determines that it is necessary to proceed as a law enforcement officer, the SRO will follow law enforcement procedures. Principals will follow the instructions of SROs regarding how investigations will proceed as discussed in the checklist above.

10) Threat Assessments:

Threat and risk assessments are conducted in cases where students have been involved in assaults, serious fights with potential for retribution or further violence, serious attempts or plans to harm other students or staff, verbal, written or on-line threats against individuals or groups of students, teachers, or the whole school. **Threat and risk assessments are not appropriate in cases of sexual abuse or assault.** These assessments are conducted by trained school Social Workers and Counselors and can be completed during the suspension period. Law enforcement may be part of these assessments when deemed necessary. If threats are exacerbated by circumstances, i.e. access to weapons, issues at home, etc., referrals should be made to law enforcement and/or DSS for further assessment or investigation.

11) Additional Reporting by Superintendent's Designee:

If an investigation involves possible evidence of sexual/physical abuse or assault committed by school staff, including a) any possible lack of supervision from school staff resulting in harm to students or b) a lack of an appropriate response by school staff to a student's reporting of abuse, the Superintendent's designee will be responsible for internal notifications that should be made to additional central office personnel as required by internal procedure.

ATTACHMENT A:

Best Practice Guide for Involvement of SROs:

- 1. The Fourth Amendment & Search and Seizure**
 - a. Applies to searches by school officials and protects students from unreasonable searches and seizures of their belongings and persons.
 - b. School officials have more power than law enforcement officers to search students as long as the search is related to school order and discipline.
- 2. School Officials must have a "REASONABLE SUSPICION" that a Student has Violated or is Violating a State Law or School Rule.**
- 3. When Investigating Student or Staff Misconduct the SRO May Be Able to Rely on Reasonable Suspicion.**
- 4. The TOP TEN facts about the REASONABLE SUSPICION Standard and Searches by School Staff:**
 10. School officials do not need a search warrant.
 9. Reasonable Suspicion must be present before the search begins.
 8. Reasonable Suspicion may be based upon common sense notions.
 7. Reasonable Suspicion may be based on personal observation.
 6. Reasonable Suspicion may be based upon reliable information.
 5. Less suspicion is needed if the potential for harm is highly likely. More suspicion is needed if the infraction is minor.
 4. The search must be limited to the area in which evidence is likely.
 3. The suspicion must be individualized to a specific student.
 2. If a student gives a voluntary and knowing consent, no suspicion is needed.
 1. Do NOT conduct strip searches.
- 5. Principal Best Practice for Involvement of SROs in Joint Investigations & Searches:**
 - a. If you have reasonable suspicion that a school rule has been violated which involves a possible reportable offense, the Principal must consult with the SRO as to whether the investigation will be conducted by school officials only, jointly with law enforcement or by law enforcement only as provided in the checklist above.
 - b. At a minimum, it is permissible to have the SRO present for a search or questioning of a student by a school official in order to ensure that the student remains under control and for the safety of the official and others.
 - c. If the investigation is to be "joint", the SRO is responsible for knowing what preconditions must be met regarding searches and custodial interrogations of students and/or employees from a law enforcement perspective.



LAW ENFORCEMENT AND/OR DSS
REQUEST FOR CONFIDENTIAL STUDENT
INFORMATION/RECORDS

Name of Student: _____	
<input type="checkbox"/> Male	<input type="checkbox"/> Female DOB _____
Grade Level: _____	School Attending: _____
<input type="checkbox"/> Request to Interview Student (Check in accordance with instructions from officer)	
_____ Parent/Guardian may be informed after interview _____ Parent/Guardian may not be informed after interview. Officer will contact parents directly after interview.	
<input type="checkbox"/> Request for Student Records (Check all that apply)	
_____ Attendance _____ Discipline _____ Other (Explain): _____	_____ Grades _____ Medical
Purpose of Student Records Request (Check at Least One Purpose Below)	
<i>IMMEDIATE ACCESS TO RECORDS</i>	<i>ACCESS TO RECORDS 1 BUSINESS DAY AFTER NOTICE TO PARENTS BY SCHOOL</i>
_____ Child Abuse Investigation _____ Health or Safety Emergency (Describe Nature of Emergency): _____ _____	_____ Law Enforcement Matter (Attach Subpoena, Search Warrant, or Court Order) Note: Notice to parents required by federal law unless Order specifies otherwise.
Person Requesting: _____ Agency Name: _____ Badge/ID Number: _____	
Date of Request: _____ Signature: _____	
[SCHOOL USE ONLY]	
Records Provided (Describe): _____ _____	Date Provided _____
Interview Provided _____ Date of Interview _____	School Official handling request: _____
Parent Notified? <input type="checkbox"/> Yes <input type="checkbox"/> No	This Form Put in Student File? <input type="checkbox"/> Yes <input type="checkbox"/> No



**OFFICE OF THE SHERIFF
BUNCOMBE COUNTY, NORTH CAROLINA**

**60 Court Plaza, 4th Floor
Asheville, NC 28801**

Van Duncan, Sheriff

To: All Police Sworn Personnel

From: Captain John Elkins
Enforcement Division

Lt. Mike Ruby
School Resource Officer Division

Date: September 3, 2015

Re: Access to Students and Student Information for Law Enforcement Purposes

School Resource Officers (SROs) coordinate initial investigations by law enforcement of school-related misconduct of a serious criminal nature. If a matter is school-related, please consult with the appropriate SRO before conducting any investigation. SROs receive specific training and follow specific protocols developed in cooperation with the Asheville City and Buncombe County Schools.

This memo clarifies the protocol for law enforcement interviews of students and accessing student information for a non-school related law enforcement matter. If you need information on an employee of either school system, please consult the SRO for assistance in working with school officials in determining what employee information may require a search warrant, subpoena or court order.

Please note the following regarding federal and state law and best practice with regards to student interviews and access to student information. A copy of this document will be maintained at each City and County school.

- I. General Provisions
 - Always check-in at the school front office and ask to speak with a principal or assistant principal.

- Give your name and unit number upon request and complete a “Request for Confidential Student Information/Records” form (see attached).
- If an SRO is present at the school, consult with the SRO regarding your need for information. Again, SROs receive special training on school investigations and they can provide immediate assistance to you.
- If a student must be arrested at school, please ask for the assistance of school officials in making sure the arrest does not take place in front of other students.

II. Interviews of Students

- Do not conduct interviews of students at school, during school hours unless there is a compelling and reasonable need for information.
- Interviews should not interfere with important academic time or activities such as testing.
- School officials do not have the legal ability to give “parental consent” to the search or questioning of a minor student.
- If you request to interview a student, you must decide if parent consent is needed, including compliance with the mandates of juvenile *Miranda*.
- Upon request, school officials will give you contact information for the parents / legal guardians so you can notify them and/or obtain parental permission for an interview.
- If you do not need parent consent, you should notify the parents after the interview.
- Unless you direct otherwise, school officials may notify and/or respond to parent inquiries by confirming the interview and providing your name and badge number. Please note that the “Request for Confidential Student Information/Record” form will be maintained in the student’s school record and parents / guardians are entitled to a copy.

III. Law Enforcement Investigations and Student Records

- School officials are responsible for knowing what student information is confidential and what information may be shared immediately under federal law.
- Confidential student information may not be shared with you unless one of the following applies:
 - You are conducting a child abuse investigation (see below).
 - The investigation involves a present health or safety emergency (see below).
 - The parent agrees to provide you with the information and gives it to you directly.
 - You have a search warrant, subpoena and/or court order. Under federal law, the school must make a reasonable effort to notify the parent(s) in advance of compliance.

IV. Child Abuse Investigations

- Per federal law, you do not need a warrant, subpoena or court order to obtain confidential student information when conducting an investigation of possible child abuse.
- Per State law, school officials will make any student available for interview in connection with a child abuse investigation.
- You must complete a “Request for Confidential Student Information/Records” form for each student you wish to interview.

- School officials will make any and all confidential student records available once a "Request for Confidential Student Information/Records" form is completed and the necessary notice is given, if required.

V. Health and Safety Emergency

- Per federal law, a warrant, subpoena or court order is not needed for access to confidential student information when the matter involves an "articulable and significant threat to the health or safety of the student or other individuals."
- School officials may rely on your good faith assertion that a health and/or safety emergency exists. However, you must briefly describe the threat on the "Request for Confidential Student Information/Records" form.
- For example, a school building surveillance and on-board bus videos often become confidential student records as evidence of possible student misconduct. If you believe a video has information that is relevant to a present "articulable and significant threat to the health or safety of a student or other individuals", you are entitled to an immediate copy once you identify the nature of the threat on the "Request for Confidential Student Information/Records" form. If no such present threat exists, you will need to obtain a copy through a search warrant, subpoena or court order in compliance with federal law.

**Asheville Police Department
Criminal Investigations Division**

Memorandum of Record



To: All Police Sworn Personnel

From: Lt. Curtis Jones
Criminal Investigations Division

Cynthia S. Grady
Asheville City Schools – Chief Human Resources Officer

Date: April 7, 2015

Re: Access To Students and Student Information for Law Enforcement Purposes

School Resource Officers (“SROs”) coordinate initial investigations by law enforcement of school-related misconduct of a serious criminal nature. If a matter is school-related, please consult with the appropriate SRO before conducting any investigation. SROs receive specific training and follow specific protocols developed in cooperation with the Asheville City and Buncombe County Schools.

This memo clarifies the protocol for law enforcement interviews of students and accessing student information for a non-school related law enforcement matter. If you need information on an employee of either school system, please consult the SRO for assistance in working with school officials in determining what employee information may require a search warrant, subpoena or court order.

Please note the following regarding federal and state law and best practice with regards to student interviews and access to student information. A copy of this document will be maintained at each City and County school.

I. General Provisions

- Always check-in at the school front office and ask to speak with a principal or assistant principal.
- Give your name and badge number upon request and complete a “Request for Confidential Student Information/Records” form (see attached).
- If an SRO is present at the school, consult with the SRO regarding your need for information. Again, SROs receive special training on school investigations and they can provide immediate assistance to you.
- If a student must be arrested at school, please ask for the assistance of school officials in making sure the arrest does not take place in front of other students.

II. Interviews of Students

- Do not conduct interviews of students at school, during school hours unless there is a compelling and reasonable need for information.
- Interviews should not interfere with important academic time or activities such as testing.
- School officials do not have the legal ability to give “parental consent” to the search or questioning of a minor student.
- If you request to interview a student, you must decide if parent consent is needed, including compliance with the mandates of juvenile *Miranda*.
- Upon request, school officials will give you contact information for the parents / legal guardians so you can notify them and/or obtain parental permission for an interview.
- If you do not need parent consent, you should notify the parents after the interview.
- Unless you direct otherwise, school officials may notify and/or respond to parent inquires by confirming the interview and providing your name and badge number. Please note that the “Request for Confidential Student Information/Record” form will be maintained in the student’s school record and parents / guardians are entitled to a copy.

III. Law Enforcement Investigations and Student Records

- School officials are responsible for knowing what student information is confidential and what information may be shared immediately under federal law.
- Confidential student information may not be shared with you unless one of the following applies:
 - You are conducting a child abuse investigation (see below).
 - The investigation involves a present health or safety emergency (see below).
 - The parent agrees to provide you with the information and gives it to you directly.
 - You have a search warrant, subpoena and/or court order. Under federal law, the school must make a reasonable effort to notify the parent(s) in advance of compliance.

IV. Child Abuse Investigations

- Per federal law, you do not need a warrant, subpoena or court order to obtain confidential student information when conducting an investigation of possible child abuse.
- Per State law, school officials will make any student available for interview in connection with a child abuse investigation.
- You must complete a “Request for Confidential Student Information/Records” form for each student you wish to interview.
- School officials will make any and all confidential student records available once a “Request for Confidential Student Information/Records” form is completed and the necessary notice is given, if required.

V. Health and Safety Emergency

- Per federal law, a warrant, subpoena or court order is not needed for access to confidential student information when the matter involves an “articulable and significant threat to the health or safety of the student or other individuals.”
- School officials may rely on your good faith assertion that a health and/or safety emergency exists. However, you must briefly describe the threat on the “Request for

Confidential Student Information/Records” form.

- For example, a school building surveillance and on-board bus videos often become confidential student records as evidence of possible student misconduct. If you believe a video has information that is relevant to a present “articulable and significant threat to the health or safety of a student or other individuals”, you are entitled to an immediate copy once you identify the nature of the threat on the “Request for Confidential Student Information/Records” form. If no such present threat exists, you will need to obtain a copy through a search warrant, subpoena or court order in compliance with federal law.

Submitted for Information: October 1, 2015