

**MEMORANDUM OF UNDERSTANDING,
BETWEEN NEWTON PUBLIC SCHOOLS
AND NEWTON POLICE DEPARTMENT**

I. GENERAL PRINCIPLES

The NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT agree to coordinate their efforts and share information in order to prevent violence involving the students of the NEWTON PUBLIC SCHOOLS, to prevent the use, abuse and distribution of alcohol and other controlled substances involving the students of NEWTON PUBLIC SCHOOLS and to promote a safe and nurturing environment in the school community.

We agree to respond effectively and cooperatively for everyone's protection to incidents of student delinquency, truancy, and criminal behavior. The joint effort of cooperative response will focus on incidents that take place on school property, at school sponsored events, and at other locations in which students of the NEWTON PUBLIC SCHOOLS are involved or affected.

We also agree to keep all information disclosed pursuant to G.L. c. 12 § 32; G.L. c. 71 § 37H1/2; G.L. c. 71 § 37L; 603 CMR 23; and 20 U.S.C. § 1232g, from public dissemination in accordance with state and federal law.

This agreement is entered into pursuant to the Laws of the Commonwealth of Massachusetts and pertains to issues of violence, attempted violence or threatened violence, the use, abuse and/or distribution of alcohol or other drugs, or other incidents that would require a law enforcement response to a school, during any school sponsored activity (on or off school grounds), or involving students of the NEWTON PUBLIC SCHOOLS. It is to be read in conjunction with any and all policies, procedures, and reporting requirements set forth in the NEWTON PUBLIC SCHOOLS student handbook.

It is agreed and understood that it is the sole prerogative of school officials to impose discipline for infractions of school rules and policies not amounting to criminal or delinquent conduct. See the school handbook for specific policies and procedures in this regard.

II. SCHOOL AND POLICE DEPARTMENT DESIGNATED LIAISONS

In order to facilitate prompt and clear communications between the school and police personnel, the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT agree to identify individuals on their respective staffs who will function as Designated Liaisons.

A. THE NEWTON PUBLIC SCHOOLS DESIGNATED LIAISONS, BY SCHOOL, ARE:

Superintendent of Schools
School Principals
Assistant Principals or Vice Principals
Housemasters
Prevention Intervention Counselors

B. THE NEWTON POLICE DEPARTMENT DESIGNATED LIAISONS ARE:

Captain, Sergeant, Youth Officers of the Detective Bureau
Lieutenant, Youth Officers from Community Services Bureau

The aforementioned police department designated liaisons are considered a part of the NEWTON PUBLIC SCHOOLS District's "Law Enforcement Unit" as defined in the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g) for purposes of sharing information regarding students.

III. ISSUES OF CONCERN TO THE DESIGNATED LIAISONS

A. REPORTABLE INCIDENTS:

- (1) The Designated Liaisons from the School and Police Department will review all incidents classified as Mandatory Reportable Incidents, as defined in Section IV of this agreement.
- (2) Additionally, the Designated Liaisons will review any incident or information that may affect the safety or well being of students, faculty, or administrative personnel.

B. PREVENTION STRATEGIES:

In addition to the above responsibilities, the Designated Liaisons from the School, the Police Department and the Middlesex District Attorney's Office will meet regularly for the following purposes:

- (1) to discuss incidents of violence or bullying (as defined under G.L. c. 71, § 37O) in school or outside of school that affects students of the school;
- (2) to discuss any use, abuse or distribution of alcohol and/or other controlled substances or any other criminal activity affecting students;
- (3) to identify strategies to reduce such activities and to promote a safe and nurturing school environment;
- (4) to discuss community resources available for students at risk of harm from violence, abuse or neglect;

- (5) to develop violence prevention and intervention programs, identification, protocol and curricula as required by G.L. c. 12 § 32; and
- (6) to outline the necessary action plan for implementation of such strategies.

IV. REPORTING GUIDELINES

A. SCHOOL REPORTS TO POLICE DEPARTMENT

- (1) The following shall be considered Mandatory Reportable Incidents:
 - (a) possession, use, or distribution of alcohol by a student;
 - (b) possession, use, or distribution of an inhalant or any controlled substance, as defined in G.L. c. 94C (excepting any possession of prescription medication possessed and administered in accordance with state law and school policy);
 - (c) any incident in which any individual is reasonably believed to be distributing controlled substances or alcohol;
 - (d) any incident involving the threat of assaultive behavior or intentional assaultive behavior and/or reckless behavior that results in personal injury;
 - (e) possession of a weapon, as defined in the school handbook or under G.L. c. 71 § 37H (a), which includes, but is not limited to, a gun or a knife, and ammunition or components thereof.
 - (f) any incident involving stalking or harassment in violation of G.L. c. 265 § 43 and 43A, annoying phone calls, domestic abuse, dating violence, or a violation of G.L. c. 209A or 258E restraining order, and any students either protected by a restraining order;
 - (g) any incident involving a child suffering physical or emotional injury resulting from abuse inflicted upon him or her which causes harm or the substantial risk of harm to the child's health or welfare, including sexual abuse or from neglect (in addition to a report filed with the Department of Children and Families);
 - (h) any incident involving an actual or suspected hate crime or violation of civil rights, including but not limited to an assault or battery upon a person or damage to the real or personal property of a person with the intent to intimidate such person because of such person's race, color, national origin, sexual orientation, or disability in violation of G.L. c. 265 §§ 37 and 39, as well as any act of bodily injury or attempt to cause bodily injury against a person due to actual or perceived religion, national origin, gender, sexual

orientation, gender identity, or disability in violation of 18 U.S.C. § 249;

- (i) any incident resulting in significant damage to municipal or private property;
 - (j) any bomb threat, fire, threatened or attempted fire setting, threatened or attempted use of an explosive device or hoax device, or possession of a "novelty lighter" as defined by G.L. c. 148 § 60. NOTE: The school shall also report "unauthorized ignition of any fires" to the local fire department under G.L. c. 148 § 2A;
 - (k) any creation or possession of a document, whether computer or manually generated, handwritten or electronic (e.g., *text or email*), that identifies any individual targeted for violence or death;
 - (l) any threat, direct or indirect, past or future, against a student, school personnel or other school employee;
 - (m) any incident of "hazing" as defined by G.L. c. 269 § 17, involving any conduct or ritual or method of initiation into any school organization that endangers the physical or mental health of any student;
 - (n) any sexual assault, including but not limited to rape, assault with intent to rape, indecent assault and battery, as well as any lewd and lascivious behavior, open and gross lewdness, indecent exposure, or incident of gender-based harassment, "sexting", "sextortion"¹ or possession or dissemination of sexually explicit photographs of a student;
 - (o) any incident of "bullying" or "cyber-bullying" as defined by G.L. c. 71 § 37O where the school believes that the incident may have involved criminal conduct or involves any other reportable acts outlined in (a) through (n).
- (2) Mandatory Reportable Incidents will be immediately reported to the NEWTON POLICE DEPARTMENT if such incident:
- (a) occurred on school property or within 1,000 foot radius of school property;
 - (b) occurred at a school-sponsored function;

¹ "Sexting" refers to the sending of a photograph or other visual image, depicting a person in a partial or total state of nudity, via text message, from one electronic device to another, usually cell telephones. "Sextortion" refers to a form of extortion (attempted or completed) where a person is extorted with a nude or partially nude image of themselves they had shared through "sexting", usually of money, additional images or a promise of sexual acts.

- (c) occurred in a school owned or contracted bus or other vehicle or at school bus stop; or
 - (d) involved a student of the NEWTON PUBLIC SCHOOLS.
- (3) The Designated Liaisons from the School may report any other incident or information that may affect the safety or well being of students, faculty, or administrative personnel at the School.

B. POLICE DEPARTMENT REPORTS TO THE SCHOOL

The appropriate Police Department Designated Liaison will inform the appropriate School Designated Liaison, subject to applicable statutes and regulations governing confidentiality, of:

- (1) any arrest of a student or the filing of a criminal or delinquency complaint application against any student of NEWTON PUBLIC SCHOOLS; and
- (2) any occurrence involving a student of the NEWTON PUBLIC SCHOOLS, if the
 - (a) activity poses a serious (present or future) threat to the safety of the student, other students, faculty, or administrative personnel;
 - (b) making of such report would facilitate supportive intervention by school personnel on behalf of the student; or
 - (c) activity involves actual or possible truancy.

V. PROCEDURE GUIDELINES

A. INTRODUCTION

A goal of educators is to provide a safe and nurturing climate in which learning can take place. It is also a goal of local law enforcement to promote a safe environment in the public school community.

As past events have shown, any school is at risk for incidents of violence, threatened violence or attempted violence, as well as the use, abuse and distribution of alcohol and other controlled substances, all of which diminish the ability of the school community to focus upon the business of learning. In order to promote a safe and nurturing environment in our schools and in our community, it is in our common interest to share information. It is through the collaborative efforts of the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT that this can occur.

In order to maintain a safe and nurturing environment in its schools, the NEWTON PUBLIC SCHOOLS reserves the right to conduct a reasonable search

all school property for weapons, alcohol, other contraband or controlled substances in accordance with state and federal law and the student handbook.

B. REPORTING PROCEDURES FOR EMERGENCY SITUATIONS

Definition: An emergency situation is any incident that poses a threat to human health or safety or which may result in serious property damage.

A teacher or other employee having knowledge of any emergency situation shall immediately notify or cause to be notified both the NEWTON POLICE DEPARTMENT (911) and the School Principal or Assistant Principal. This requirement is in addition to any procedures outlined in the student handbook.

Where an emergency exists and there is an immediate need to avert or defuse certain unusual conditions or disruptions in the school setting, the school will provide all necessary information to law enforcement personnel regarding the student at issue. (See § 99.31(a) (10) of the FERPA regulations.)

C. REPORTING PROCEDURES FOR NON-EMERGENCY SITUATIONS

A teacher or other school employee, having reasonable grounds to believe that a student has committed an act categorized as a Mandatory Reportable Incident, shall promptly (1) report the incident and names of any involved persons to the appropriate Designated School liaison and (2) take reasonable steps to maintain any pertinent physical evidence in a secure place.

D. RESPONSIBILITY OF THE DESIGNATED SCHOOL LIAISON

Once a Designated School Liaison has been made aware of a Mandatory Reportable Incident, it is her/his responsibility to immediately:

- (1) notify the Police Department Designated School Liaison and, when appropriate, the parents or guardians of the involved students;
- (2) notify the Police Liaison of the existence of pertinent physical evidence and take reasonable steps to maintain it in a secure place; and
- (3) notify the Police Liaison of any related written reports about the incident.

VI. PROCEDURES FOR INTERVIEWING OR ARRESTING STUDENT/S ON SCHOOL GROUNDS

Close cooperation and communication between the schools and police, and a mutual understanding of and respect for the important role that each plays in connection with our youth, are essential to the success of the mission of both institutions. Whenever it is necessary for the police to be present on school property, they will conduct themselves according to accepted legal practices, recognizing the responsibility and authority of school officials to manage the

school environment and work with school officials to minimize any impact their actions might have on that environment.

A. GENERAL

This agreement pertains to juveniles on school property during school hours or during school-sanctioned events, on or off school property. It does not pertain to juveniles trespassing or committing offenses on school property after school hours.

B. INTERVIEWING/INTERROGATING STUDENTS

- (1) Except in exigent circumstances, officers who wish to detain or question youths on school property shall first contact the school principal or his/her designee. To the degree possible, officers shall explain the nature of their business and the need to meet with the youth(s) in question. Wherever possible, parents will be notified by the school prior to the officers detaining or questioning the youth(s).
- (2) In general, students should not be publicly contacted by officers in the school setting for purposes of questioning unless exigent circumstances exist or such notification would potentially jeopardize student, school staff, or officer safety.
- (3) At their request, school officials and/or parents may be present as observers during interviews or questioning of the students.

C. JUVENILE INCIDENTS/CRIMES COMMITTED ON SCHOOL GROUNDS

- (1) Only a small percentage of school related juvenile incidents reported to the Newton Police Department amount to serious crimes. As such, the vast majority of juveniles involved in incidents are likely candidates for positive diversion and intervention efforts agreed upon by school officials, the police and parents.
- (2) When juveniles commit a more serious act that, if committed by an adult, would constitute a crime not amounting to a serious or violent felony, youth officers, working with school officials shall, when appropriate, request a hearing or summons instead of affecting an arrest.
- (3) Juvenile incidents that constitute serious or violent felonies if committed by an adult, would generally, but not always, result in an arrest. The following are examples of serious/violent crimes where any arrest should be contemplated:
 - a. felony assault with intent to cause serious bodily injury or death;
 - b. robbery involving force;
 - c. sale of controlled substance;
 - d. burglary; and
 - e. rape.

Also, with respect to active arrest warrants and violations of active restraining orders which may result in an arrest, the police will consult with school officials on the least disruptive way to take the youth into custody.

D. ARREST/REMOVAL OF STUDENTS

- (1) As a general rule, officers should avoid making arrests on school grounds when they may be made effectively elsewhere. Whenever possible, youth officers or police supervisors shall work with school authorities to make the appropriate arrangements for taking the juvenile into custody off of the school grounds.
- (2) Where possible, officers should not arrest juveniles on school grounds if the use of force is a reasonable possibility.
- (3) When an arrest of a juvenile must be made during school hours on school grounds or at school sanctioned activities, a youth officer will be notified to respond if not already at the scene. In the event that youth officers are unavailable, the patrol supervisor will go to the scene to consult with school officials and take appropriate action.
- (4) Students shall not be removed from school property or school sanctioned events without the youth officer or supervisors making notification to the school principal or his/her designee, unless exigent circumstances exist.
- (5) The youth officer or supervisor shall notify the principal or her/his designee *before* arresting a student(s) on school grounds during school hours or school sanctioned activities on or off school grounds unless exigent circumstances exist or such notification would potentially jeopardize the ability of officers to safely and effectively make the arrest. Whenever possible, parents will be notified by the schools if a student is arrested on school grounds.
- (6) Working with designated school officials, the youth officer or supervisor will arrange for the least disruptive and embarrassing method of affecting the arrest.

VII. IMPLEMENTATION

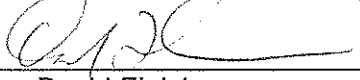
A. TRAINING

The NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT agree to provide agency-wide training to their respective staffs to inform them of their roles and responsibilities under this agreement and to consult with the Middlesex District Attorney's Office as appropriate regarding this agency-wide training. On an on-going basis, the same training will be provided to new staff members.

B. EFFECTIVE DATE AND DURATION OF THIS AGREEMENT

The provisions of this Memorandum of Understanding shall be effective as of the date of signing and will remain in full force and effect until amended or rescinded by the parties.

FOR THE NEWTON PUBLIC SCHOOLS:

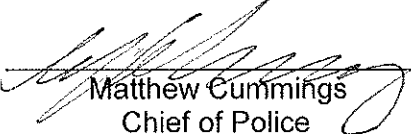


David Fleishman
Superintendent of Schools



Date

FOR THE NEWTON POLICE DEPARTMENT:

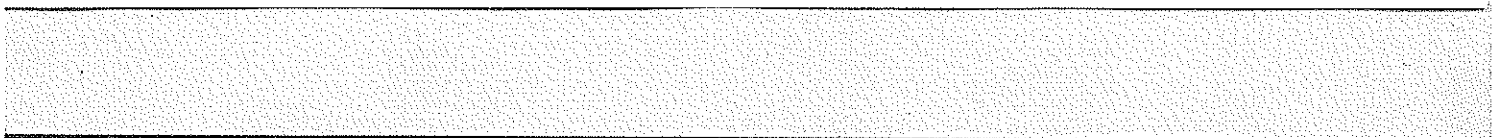


Matthew Cummings
Chief of Police



Date

/mb



APPENDIX A

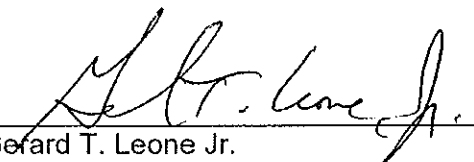
ROLE OF THE OFFICE OF THE MIDDLESEX DISTRICT ATTORNEY

In the spirit of the legislative mandate regarding communication between the district attorney, law enforcement and school officials, as included in General Laws, Chapter 12, Section 32, and to assist the NEWTON PUBLIC SCHOOLS in providing a safe environment for learning, in accordance with the legislative mandate set forth in G.L. c. 71, §§ 37H and 371/2H, among others, the Middlesex District Attorney's Office (MDAO), through his designees, agrees to:

- (1) report to the school any complaint, criminal or delinquency, that is issued against a defendant or juvenile who is known to be a student of the NEWTON PUBLIC SCHOOLS;
- (2) report to the school the facts underlying any incident which the MDAO is considering diverting a student in lieu of prosecution where the student is known to attend the NEWTON PUBLIC SCHOOLS;
- (3) report to the school any adjudication of delinquency or conviction, or other significant occurrence that arises from any above criminal or delinquency proceeding;
- (4) consult with the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT when fashioning proposed terms and conditions to be imposed upon a known student of the NEWTON PUBLIC SCHOOLS at both the pre-adjudication and post-adjudication stages of the prosecution; and
- (5) consult with the NEWTON PUBLIC SCHOOLS and the NEWTON POLICE DEPARTMENT when deciding whether to divert a known student in lieu of prosecution or to prosecute a student as a Youthful Offender.

The Middlesex District Attorney agrees to provide training to the MDAO staff to inform them of their roles and responsibilities under this agreement. On an on-going basis, the same training will be provided to new staff members.

The MDAO will not disclose a student's personally identifiable information learned during and/or in relation to a G.L. c. 12, § 32 community based justice meeting to a third party other than another juvenile justice system agency and/or as provided by state and federal law.


Gerard T. Leone Jr.
Middlesex District Attorney

Date 4/14/11

LAW DEPARTMENT



CITY OF NEWTON, MASSACHUSETTS

CITY HALL

1000 COMMONWEALTH AVENUE
NEWTON CENTRE, MA 02459
TELEPHONE (617) 796-1240
FACSIMILE (617) 796-1254

CITY SOLICITOR
DONNALYN B. LYNCH KAHN

ASSOCIATE CITY SOLICITOR
QUIDA C.M. YOUNG

ASSISTANT CITY SOLICITORS

MARIE M. LAW, OR
ANGELA BUCHANAN SMAGULA
ROBERT J. WADDICK
MAURA E. O'KEEFE
JEFFREY A. HONIG
ALAN D. MANDL
JULIE B. ROSS
DENNIS A. MURPHY

December 22, 2014

Mason Kortz
ACLU of Massachusetts
211 Congress Street
Boston, MA 02110

RE: *Public Records Request for Records Relating to
Student Records Management*

Dear Mr. Kortz:

In further response to your public records request for the narrowly tailored request regarding policies for the retention and sharing of security camera data, I enclose at no cost to you, the City of Newton's Protocol for Security Camera Recorded Data as approved by the Newton School Committee on June 14, 2010.

Very truly yours,

Donnalyn B. Lynch Kahn
City Solicitor

cc: Dr. David A. Fleishman, Superintendent of Schools
Mary Burns, Superintendent's Office

Protocol for Security Camera Recorded Data

Approved by School Committee 6/14/10

Security camera recordings will be viewable in each building by authorized designees only.

Camera Placement:

Camera installations will only be located in public areas such as hallways, athletic areas, large public gathering spaces, parking lots and public walkways. The purpose of these installations is to monitor public areas where the potential for criminal activity is greatest (false fire alarm pulls, graffiti, vandalism, backpack and personal belonging theft, etc.). The cameras shall not be placed in areas where there may be a reasonable expectation of privacy by staff and students (e.g. rest rooms, locker rooms, private offices, department offices, conference rooms, staff lounges).

Signage and Notification:

Signs will be posted in public entryways to the buildings and at other conspicuous locations informing persons that the building and grounds may be under video surveillance. The posted signs will read: ***Surveillance Cameras in Use.***

The District shall notify students, staff and the general public that video surveillance will occur on school property through use of the signage and other appropriate notifications including a notice in the student handbook.

Limited Access to Recordings:

- The Superintendent or his/her expressly authorized designee shall oversee video surveillance.
- Only individuals authorized by the Superintendent or his/her designee may view the surveillance recordings.
- Only the principal and/or superintendent will decide when and if viewing needs to occur.
- Police access will be determined in accordance with the Memorandum of Understanding with the Newton Police Department.

Viewing:

- There will be no monitoring of live recordings.
- Reviewing the recordings will occur only when a suspected crime is committed inside or outside the building (e.g. vandalism, graffiti, etc.).
- Viewing the data is to be performed by a minimum of two administrators that have been expressly authorized to do so by the principal.
- A log book shall include the following details: the persons viewing the data, what event triggered the viewing, the date/time viewed, what was found on the recording, whether the data was copied or forwarded, and what consequences were imposed as a result of the recorded information.
- Information obtained through video surveillance may only be used for disciplinary investigations, security or law enforcement purposes. No sound is to be monitored or recorded in connection with the video surveillance system.
- Surveillance system misuse shall be addressed on a case-by-case basis by the District.

Short Term Data Storage:

- Video recordings (with the exception of those segments that evidence a crime being committed) will be maintained for a maximum of fourteen (14) consecutive days and then deleted. All such recordings shall be treated as confidential and shall not be released to individuals or agencies outside of the District except through subpoena or other court order requiring such release.
- Any law enforcement agency may be provided with a duplicate of the recorded materials in conjunction with an ongoing investigation by that agency. Notification to the Superintendent's office shall take place for each duplication of data.

LAW DEPARTMENT



CITY OF NEWTON, MASSACHUSETTS

CITY HALL

1000 COMMONWEALTH AVENUE

NEWTON CENTRE, MA 02459

TELEPHONE (617) 796-1240

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JULIE B. ROSS
DENNIS A. MURPHY

December 15, 2014

Mason Kortz
ACLU of Massachusetts
211 Congress Street
Boston, MA 02110

RE: *Public Records Request for Records Relating to
Student Records Management*

Dear Mr. Kortz:

The Newton Public Schools hereby responds to the above-referenced public records request.

REQUESTS

1. Any contracts, agreements, receipts, invoices, grants or Memoranda of Understanding for:
 - a. The purchase, lease, or use of an SIS.
 - b. The purchase, lease, or use of any hardware or software that is able to access student records by connecting to an SIS.
 - c. On-site or off-site electronic storage of student records.
 - d. Access to student records by anyone other than the specific student to whom the records belong or that student's guardian.

2. Any rules, regulations, guidelines, handbooks, training materials, student and parent handouts, or other records that describe policies relating to:

- a. The creation, retention, or deletion of student records in an SIS.
- b. Privacy and security practices for student records in an SIS.
- c. Notification in case of unauthorized access to student records in an SIS.
- d. Access to student records by students and their guardians.
- e. Access to student records by individuals or entities other than students and their guardians.

Second, the following documents relating to personally identifiable student information other than student records:

3. Any access, retention, filtering, data breach or privacy policies for:

- a. School surveillance camera systems and footage.
- b. Biometric systems, including fingerprint readers and voice recognition systems.
- c. Radio-frequency identification (RFID) systems.
- d. Student email accounts.

4. Any contract, agreement, or Memoranda of Understanding with an email provider to manage student email accounts.

RESPONSES

Please be advised that the Newton Public Schools do not have biometric systems, radio frequency identification systems or student e-mail accounts, and therefore have no documents responsive to requests no. 3(b), (c), (d) or 4.

In response to request 3(a), the Newton Public Schools maintain that any documents responsive to this request are exempted from disclosure pursuant to M.G.L. c. 4, § 7, cl. 26(n) relating to the security or safety of persons or buildings within the commonwealth.

In response to requests no. 1(d), 2(d) and 2(e), the Newton Public Schools attach copies of relevant pages of the student handbook and the annual back to school training PowerPoint regarding student records which are being provided to you at no cost.

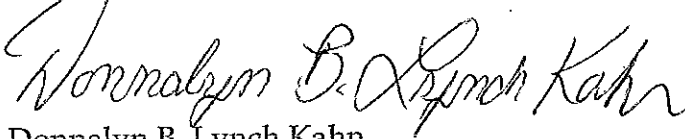
Finally, in response to requests no. 1(a), 1(b), 1(c), 2(a), 2(b) and 2(c), the Newton Public Schools estimate that it would take four employees approximately five work days to compile the records. The following is estimate of costs to provide these records.

<u>Employee</u>	<u>*Daily Rate</u>	<u>Rate for 5 Work Days</u>
Employee 1	221.21	\$ 1,106.05
Employee 2	202.83	\$ 1,014.15
Employee 3	352.38	\$ 1,761.90
Employee 4	390.39	<u>\$ 1,951.95</u>
	Total:	\$ 5,834.05

* Daily Rate is based on annual rate divided by 260 day work year.

If you would like the Newton Public Schools to proceed with this final category of documents, I will require a check payable to the Newton Public Schools sent to my attention before any search and production.

Very truly yours,



Donnalyn B. Lynch Kahn
City Solicitor

cc: David Fleishman, Superintendent of Schools
Mary Burns

Students' Rights
and
Responsibilities Handbook
2014-2015



Includes Administrative Policies
& Procedures

Newton Public Schools
Newton, Massachusetts

6951

of particular interest to NewtonPAC families. You may check the website, www.newtonPAC.org, with the Student Services Office at (617) 559-6025 or with your school Principal for the name of your school's NewtonPAC representative.

II. RIGHTS OF FREEDOM OF EXPRESSION

A. Freedom of Speech

All students are free to express their own points of view and are protected from those who would inhibit that expression. However, freedom of speech is a right that carries with it certain responsibilities; and its exercise is subject to certain limitations as to time, manner and place.

B. Freedom of the Press

The Newton School Committee passed the following on March 14, 1988:

"The Newton Schools have a proud tradition of publications and performances which have provided a legitimate forum for student opinions and views. Our secondary schools have always supported an atmosphere where it has been possible for students and faculty members to exercise their First Amendment rights in a responsible manner. The Newton School Committee is confident that the Principals will continue to appoint highly qualified faculty advisers and that the students will continue to uphold the highest standards of freedom of expression, avoiding libel, slander and that which would substantially interfere with the work of the school or impinge on the rights of other students."

C. Freedom of Assembly

Associations may be organized within the school for political, social, athletic or other proper and lawful purposes, subject to reasonable limitations as to time, manner and place of assembly.

D. Freedom of Petition

Students are free to collect signatures on petitions concerning either in-school or out-of-school issues so long as this activity does not interfere with the regular operation of classes.

E. Freedom of Religion

Newton Public Schools shall not interfere with or infringe upon the religious freedom of its students. The study of religion or of the Bible from a literary or historical point of view is permitted but must be presented objectively.

III. RIGHTS OF STUDENTS AND FAMILIES REGARDING STUDENT RECORDS

The Family Educational Rights and Privacy Act (FERPA) affords parents and students over 18 years of age ("eligible students") certain rights with respect to the student's education.

They are

1. The right to inspect and review the student's education records within 45 days of the day the district receives a request for access. Parents or eligible students should submit to the school Principal (or appropriate school official) a written request that identifies the record(s) they wish to inspect. The Principal will make arrangements for access and notify the parent or eligible student of the time and place where the records may be inspected.
2. The right to request Newton Public Schools' amend the student's education records that the parent or eligible student believes are inaccurate or misleading. They should write the school Principal, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading. If the district decides not to amend the record as requested by the parent or eligible student, the district will notify the parent or eligible student of the decision and advise them of their right to a hearing regarding

- the request for amendment. Additional information regarding the hearing procedures will be provided to the parent or eligible student when notified of the right to a hearing.
3. The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent. One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel); a person serving on the School Committee; a person or company with whom the district has contracted to perform a special task (such as an attorney, auditor, medical consultant, or therapist); or a parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
 4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the district to comply with the requirements of FERPA. The name and address of the office that administers FERPA is Family Policy Compliance Office, U. S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-8520.

Access to student records is also subject to the Massachusetts Student Record Regulations, which regulations are similar to FERPA. See 603 CMR 23.00. However, 603 CMR 23.07 states "The eligible student or the parent, subject to the provisions of 603 CMR 23.07(5), shall have access to the student record. Access shall be provided as soon as practicable and within ten (10) days after the initial request, except in the case of non-custodial parents as provided in 603 CMR 23.07(5). Upon request for access, the entire student record regardless of the physical location of its parts shall be made available.

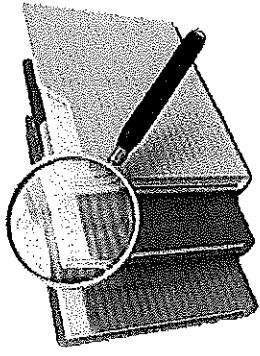
In the Newton Schools, the student's permanent school record (i.e. transcript with name, address, phone number, parent information, course titles, grades, grade level completed and year completed) is kept for 60 years. The temporary record (all other information, including health records) is destroyed no later than five years after the student leaves or graduates.

No individual or organization other than the parent, guardian, eligible student or school personnel working directly with the student is allowed access to a student's record without specific written consent of the parent, guardian or eligible student except in limited instances, as specified above. A school Principal or his or her designee may destroy misleading, outdated or irrelevant information contained in the temporary record during the time the student is enrolled in the school system, provided the parent, guardian or eligible student has been notified in writing and given the opportunity to inspect and copy any of the information prior to its destruction.

Parents and students 14 years of age or older, or in grade 9, (whichever is first) have the right to see appropriate records, including medical records. They should contact the school Principal and ask for an appointment. Parents and eligible students may obtain a copy of all or any portion of the student's record upon request. They have the right to add relevant comments, information or other written material to the student's record or to request that information contained in the record be amended or deleted (except for information inserted in the record by a team evaluation), following FERPA procedures. Within a week after the conference, the Principal must render a decision in writing on their objections to the record. If the parent, guardian or eligible student is not satisfied with the Principal's decision, he or she may appeal such decision to the Superintendent and, ultimately, to the School Committee.

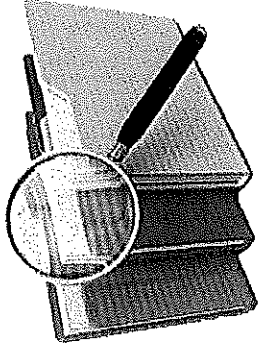
When a student transfers to a new school from the Newton Public Schools, the entire student record will be released to the new school without prior consent of the parent. Notification of this policy is given in accordance with G.L. c.71, §37L and 603 CMR 23.10(1). Parents have the right to receive a copy of the student record that is forwarded and to request a hearing regarding the amendment of any inaccurate or misleading information that they feel may be contained in the student record.

Student Records



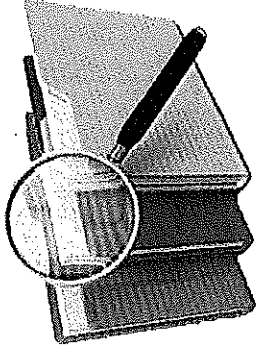
- 603 CMR 23.00 Student Records Regulations ensures parents' and students' rights of confidentiality, inspection, amendment, and destruction of student records.
- These rights belong to the parents when the student is under age 14 and has not entered the 9th grade. The rights are shared by the parents and student when the child is 14 - 17 years of age or upon entering grade 9. At age 18, the rights belong to the student alone. (For a student receiving special education services, the student can be their own guardian, share educational decision making with the parent, or the parent may be designated as the sole decision maker for the student).
- The student record consists of the transcript and the temporary record, including all information in any form that is organized on the basis of the student's name or in any manner that the student can be individually identified.

Student Records



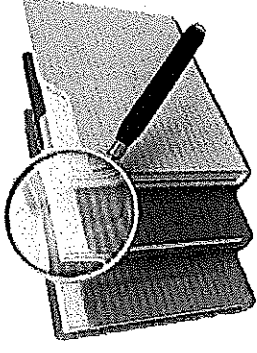
- The Principal shall be responsible for the privacy and security of all student records maintained by the school.
- The Principal shall ensure that all records are kept physically secure and that all school personnel are educated as to the importance of information privacy and confidentiality.
- Records cannot be destroyed without providing notice to parents and/or students age 14 and older.
- A Log of Access shall be maintained in each child's record. The Log must indicate the name, position, date, part of record accessed, and purpose. The Log of Access does not apply to authorized school personnel, office clerical staff, or school nurses.

Student Records



- Non-custodial refers to physical custody, not legal.
- A non-custodial parent may have access to the student record after a written request is submitted. The school must immediately notify the custodial parent of the request by certified and first class mail. The custodial parent has 21 days to respond that the non-custodial parent cannot have access due to denial of legal custody, order of supervised or denied visits, restrictions under protective orders, or order of a probate and family court judge prohibiting the distribution of the record.
- No response from the custodial parent allows release of records to the non-custodial parent with the following condition:
- All records provided to the non-custodial parent must have deleted information regarding the address, phone number (home and work of custodial parent), and must be marked to indicate that the records cannot be used for enrollment in another school

Student Records



- The term “student record” does not include notes, memory aids, and other similar information that is maintained in the personal files of the school employee and is not accessible or revealed to any other school employee.
- ***Emails are considered part of the student record! Be vigilant about your communication – what you say is part of the record once you press send!***

Donnalyn B. Lynch Kahn

From: Mary Burns <Mary_Burns@newton.k12.ma.us>
Sent: Thursday, December 11, 2014 1:19 PM
To: Donnalyn B. Lynch Kahn
Cc: Donna A. Becker
Subject: ACLU SIS PR request
Attachments: 14-15 Student Records Training.pptx

Hi Donnalynn - I have attached the portion of the "Annual Back to School Training" for all staff on student records that HR does every year. Let me know if you want the entire presentation.

Also, Jack Polnar has listed how much time and money it would take for them to compile the records. He is estimating 4 staff members for one week each. With regard to the section on the second page, a-d, we currently only have "a" and sometimes we work with the Newton Police to review footage after something has been stolen, or vandalism, etc. Let me know how I can help further. Mary

Employee Name	*Daily Rate	(X5 = weekly rate as requested)
Carol Stockdale	221.21	\$ 1,106.05
Nicole O'Brien	202.83	\$ 1,014.15
Brian McCarthy	352.38	\$ 1,761.90
Jack Polnar	390.39	\$ 1,951.95

*Daily Rate is based on annual rate divided by 260 day work year.

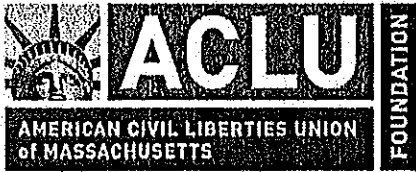
Donnalyn B. Lynch Kahn

From: Mary Burns <Mary_Burns@newton.k12.ma.us>
Sent: Tuesday, December 02, 2014 1:08 PM
To: Donnalyn B. Lynch Kahn; angela.smagula@gmail.com; Ouida C. M. Young
Subject: PR Request
Attachments: ACLU Pub. Rec. Request.pdf

FYI - here is another PR request. I will be sending it out to Central Staff this afternoon. Mary

Mary Burns
Newton Public Schools
Office of the Superintendent
100 Walnut Street
Newtonville, MA 02460
(617) 559-6100 - fax (617) 559-6101

Notice of Confidentiality: This transmission is intended for the addressee(s) listed above and may contain information that is confidential and private. If you are not the addressee(s), any use, disclosure, copying or communication of the contents of this transmission is prohibited. If this communication was received in error, contact me immediately at 617-559-6100. Thank you for your cooperation.



DEC - 2 2014

Mason Kortz, Legal Fellow
ACLU of Massachusetts
211 Congress Street
Boston, MA 02110
mkortz@aclum.org
(617) 482-3170 x314

November 26, 2014

David Fleishman
Superintendent of Schools
Newton Public Schools
100 Walnut Street
Newton, MA 02460

Re: Request for Public Records Relating to Student Records Management

Dear Dr. Fleishman,

This is a request for public records under M.G.L. ch. 66, § 10 made on behalf of the American Civil Liberties Union Foundation of Massachusetts (ACLUM). ACLUM seeks public records relating to the *creation, maintenance, and release* of personally identifiable student information. We are not requesting any personally identifiable student information *itself*.

Under 603 C.M.R. 23.02, student records include any information about a student held by a public school in a way that the student may be individually identified. Public schools are required to take special care in protecting student records because access to this information raises serious privacy concerns. ACLUM understands that schools in your district use software designed to create, maintain, store, and release student records (a "Student Information Systems" or "SIS"). We also understand that your schools may create, maintain, store, or release non-record data referencing specific students. ACLUM requests two categories of documents: (1) documents relating to student records; and (2) documents relating to personally identifiable student information other than student records.

First, we request the following documents relating to student records:

1. Any contracts, agreements, receipts, invoices, grants, or Memoranda of Understanding for:
 - a. The purchase, lease, or use of an SIS.
 - b. The purchase, lease, or use of any hardware or software that is able to access student records by connecting to an SIS.
 - c. On-site or off-site electronic storage of student records.
 - d. Access to student records by anyone other than the specific student to whom the records belong or that student's guardian.

2. Any rules, regulations, guidelines, handbooks, training materials, student and parent handouts, or other records that describe policies relating to:
 - a. The creation, retention, or deletion of student records in an SIS.
 - b. Privacy and security practices for student records in an SIS.
 - c. Notification in case of unauthorized access to student records in an SIS.
 - d. Access to student records by students and their guardians.
 - e. Access to student records by individuals or entities other than students and their guardians.

Second, we request the following documents relating to personally identifiable student information other than student records:

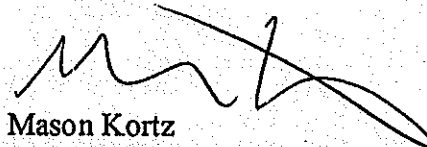
1. Any access, retention, filtering, data breach or privacy policies for:
 - a. School surveillance camera systems and footage.
 - b. Biometric systems, including fingerprint readers and voice recognition systems.
 - c. Radio-frequency identification (RFID) systems.
 - d. Student email accounts.
2. Any contract, agreement, or Memoranda of Understanding with an email provider to manage student email accounts.

Because this request involves a matter of public concern and because it is made on behalf of a nonprofit organization, we ask that you waive any copying costs pursuant to 950 C.M.R. § 32.06(5), which encourages all custodians of public records to "waive fees where disclosure would benefit the public interest." ACLUM is a nonprofit §501(c)(3) organization dedicated to the protection of civil rights and liberties for all persons in the Commonwealth of Massachusetts.

Whenever possible, we prefer to receive the documents electronically rather than in paper form. As you know, a custodian of public records shall comply with a request within ten days after receipt. If any part of this request is unclear, please contact me at 617-482-3170 ext. 314.

Thank you for your assistance. We look forward to your response.

Sincerely,



Mason Kortz
Legal Fellow
ACLU of Massachusetts