

SAMPLE

MEMORANDUM OF UNDERSTANDING BETWEEN

_____ USD No. _____
[Name of School District]

*This Agreement is entered into on this _____ day of _____, 2016 between
U.S.D. _____, _____ County, Kansas and*

Local Law Enforcement Agencies:

[List all if school district is in more than one community]

Courts Represented:

County and District Attorney's Office(s) Represented:

***[INSERT NAMES OF ALL PARTIES-- PARTIES MUST INCLUDE, AT A MINIMUM, ALL LOCAL LAW
ENFORCEMENT AGENCIES, COURTS, AND THE COUNTY OR DISTRICT ATTORNEY'S OFFICE]***

I. PURPOSE OF MEMORANDUM OF UNDERSTANDING

- A. This Memorandum of Understanding (“Memorandum”) is entered into between the *[insert name and number of school district]* (“School District”), the *[insert names of all parties pursuant to K.S.A. 72-89b03(i). Parties must include, at a minimum, all local law enforcement agencies, courts, and the county or district attorney’s office.]* The purpose of this Memorandum is to establish understanding between community agencies (“Parties”) involved in the referral of school-based behaviors to law enforcement or the juvenile justice system. The goal of this Memorandum is to reduce such referrals and protect public safety. The Parties understand and agree that each party will use its best efforts to comply with the terms and conditions of this Memorandum.
- B. The Parties acknowledge and agree that decisions affecting the filing of a complaint against a student and whether to restrain a student and place a student in secure detention should not be taken lightly. This Memorandum delineates the responsibilities of each party when school districts are required to report student behavior under Kansas law and when schools need the assistance of local law enforcement and the district and county attorney to protect the safety of all students or an individual student to promote the best interests of the student and the community.
- C. The Parties further acknowledge that avoiding formal arrest, handcuffing, and transporting the student to juvenile intake may help the student avoid being negatively labeled.
- D. The Parties acknowledge and agree that this Memorandum is a cooperative effort among the public agencies named herein to establish guidelines for the referral of school-based behaviors to law enforcement or the juvenile justice system with the goal of reducing such referrals and protecting public safety. The Parties further acknowledge and agree that the guidelines contained herein are intended to establish uniformity in the referral of school-based behaviors to law enforcement or the juvenile justice system while simultaneously ensuring that each case is addressed on an individual basis to promote a response proportional to the various and differing facts which affect each student’s case.
- E. The Parties acknowledge and agree that the matter in which each student incident is handled by the law enforcement officer, school principal or designee, and/or juvenile intake is dependent upon the many factors unique to each student that include, but are not limited to, the student’s background, present circumstances, general demeanor and disposition toward others, student discipline record, mental health status, the student’s individualized education program, crisis plan, behavior intervention plan, criminal record, and other factors. Therefore, the Parties acknowledge that students involved in the same

incident or similar incidents may receive different and varying responses depending on the specific facts relating to the student's behavior and the above factors.

- F. The Parties acknowledge and agree that when responding to a disturbance at a school district location, the law enforcement officers will inquire whether the school involved has exhausted the district's conflict resolution alternatives before making an arrest(s) or removing the student unless a greater public safety concern exists.
- G. The Parties agree that a cooperative effort will be made to coordinate intake services to insure that students who do not meet criteria for placement in secure detention or present a high risk to re-offend are not detained and instead are appropriately placed with parent(s), guardian(s) or in another appropriate setting.

II. DEFINITIONS

- A. "Behavior intervention plan" means a plan traditionally created by a team of district staff and parents that includes strategies, including positive behavioral interventions and supports, designed to prevent behavior that impedes a child's learning or that of others. If a behavior intervention plan is developed by a student's IEP team, it shall become part of the student's IEP.
- B. "Campus police officer" means a school security officer designated by the board of education of any school district pursuant to K.S.A. 72-8222, and amendments thereto.
- C. "Crisis plan" means steps to follow and who to contact when a student escalates to a crisis level and/or appears to be in danger of harming self or others.
- D. "Individualized Education Program" or "IEP" means a written statement for each exceptional child that is developed, reviewed, and revised in accordance with the provisions of K.S.A. 72-987, and amendments thereto.
- E. "Law enforcement officer," and "police officer" mean a full-time or part-time salaried officer or employee of the state, a county or a city, whose duties include the prevention or detection of crime and the enforcement of criminal or traffic laws of this state or of any Kansas municipality. This term shall include "campus police officer" and "school resource officer."

F. "School-based behaviors" mean:

1. Willful violation of any published policy for student conduct adopted or approved by the local board of education;
2. Conduct which substantially disrupts, impedes or interferes with the operation of any public school;
3. Conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity;
4. Conduct which, if pupil is an adult, constitutes the commission of a felony or, if the pupil is a juvenile, would constitute the commission of a felony if committed by an adult;
5. Conduct at school, on school property, or at a school supervised activity, which constitutes the commission of a misdemeanor or, if the pupil is a juvenile, would constitute the commission of a misdemeanor if committed by an adult; or
6. Disobedience of an order of a teacher, peace officer, school security officer or other school authority when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

G. "School resource officer" means a law enforcement officer or a police officer employed by a local law enforcement agency who is assigned to a district through an agreement between the local law enforcement agency and the district.

H. "Student" means a child officially enrolled in a USD *[insert district number]* school.

III. TERMS OF MEMORANDUM OF UNDERSTANDING

A. School-based behaviors, as defined in this Memorandum, will generally be referred to law enforcement or the juvenile justice system, when in the opinion of the Superintendent or his/her designee the student's behavior is so disruptive that it creates a reasonable and foreseeable risk of harm to self, others, or property.

The Parties agree that the response to the commission of a school-based behavior should be determined by the school staff and/or law enforcement officer(s) involved in the incident after reviewing the unique characteristics of each student including the student's discipline history and the facts of the specific behavior incident. The Parties agree that each incident will be addressed on a case by case basis to promote a uniform response proportional to the

unique factors applicable to the student, the student's discipline history and the specific behavior incident.

- B. Any student arrested for a felony and/or who is on court supervision and those juveniles who are likely to flee or pose a public safety risk, shall be taken by *[insert name of appropriate party]* to *[insert name of appropriate local site to take the described individuals]*. Ultimately the decision is made by the law enforcement officer(s) involved in the incident in consultation with the school staff. Any student can be taken directly to *[insert name of appropriate local site to take the described individual]* for any offense if deemed appropriate by a law enforcement officer.
- C. The school district and/or law enforcement shall inform the County or District Attorney's Office of the student's cooperation in this process. In any future proceedings, the County or District Attorney may take into consideration the student's performance and/or cooperation.

IV. KANSAS STATUTES REQUIRING REPORTING TO LAW ENFORCEMENT – MANDATORY TRUANCY REPORTING

- A. Mandatory Truancy Reporting K.S.A. 72-1113
 - 1. K.S.A. 72-1113(a) requires school districts to report students who are not attending school as required by law (i.e., the child is inexcusably absent from school on either 3 consecutive school days, 5 school days in a semester or 7 school days in a school year) to the Department for Children and Families (DCF) if the student is less than 13 years of age or to the county or district attorney if the student is 13 years old and less than 18 years old.
 - 2. Before reporting the student as truant the school district must personally deliver or mail the parent a written notice that if the student does not return to school within the school day after the notice is personally delivered or 3 school days after the notice is mailed then the district has to report the student as truant to DCF or the county or district attorney.
- B. The Parties agree that the required reporting of student truancy reports could be improved by the following:
[Discuss and list any changes that would improve the local procedures for reports]

V. KANSAS STATUTES REQUIRING REPORTING TO LAW ENFORCEMENT – KANSAS SCHOOL SAFETY AND SECURITY ACT

- A. Mandatory School Safety and Security Reporting Act K.S.A. 72-89b01 to 72-89b05:

K.S.A. 72-89b03(b) requires school districts to make an immediate report to law enforcement if any school employee knows or has reason to believe that an act has been committed at school, on school property, or at a school supervised activity and the act constituted the commission of a felony or misdemeanor or involved the possession, use or disposal of explosives, firearms or other weapons.

- B. The Parties agree that the required reporting by the school district to law enforcement under the Kansas School Safety and Security Act, K.S.A. 72-89b01 to 72-89b05, could be improved by the following:

[Discuss and list any changes that would improve the procedures for reporting]

VI. MANDATORY SCHOOL SAFETY VIOLATIONS REPORTING - SUSPENSION OF DRIVING PRIVILEGES

- A. Mandatory Suspension of Driving Privileges – K.S.A. 72-89c02

1. K.S.A. 72-89c02 requires school districts to report to law enforcement whenever a pupil 13 years or older has possessed a weapon or illegal drug at school, on school property or at a school supervised activity or engaged in an act or behavior at school, on school property or at a school supervised activity which resulted in, or was substantially likely to result in, serious bodily injury to others.
2. The report shall be made as soon as practicable, but not later than 10 days from the date of the student's act.
3. Upon receipt of report from the school district, law enforcement shall investigate the matter and give written notice to the Division of Motor Vehicles of the Kansas Department of Revenue of the incident as soon as practicable, but not later than 10 days from the date of receipt of the school district's report. Law enforcement must also give a copy of this notice to the pupil and the pupil's parent or guardian.
4. The Division of Motor Vehicles shall suspend the pupil's driver's license or privileges to operate a motor vehicle for a period of one year.

- B. The Parties agree that the required reporting of mandatory school safety violations regarding suspension of driving privileges could be improved as follows:

[List any changes that would improve the above reporting procedures]

VII. SECLUSION AND RESTRAINT (EMERGENCY SAFETY INTERVENTIONS)

- A. Kansas law prohibits school districts from using certain types of restraint with students and limits a school district's use of student seclusion and restraint with certain students. This law applies to the use of seclusion and restraint with all students.

1. Emergency Safety Interventions shall be used only when a student presents a reasonable and immediate danger of physical harm to such student or others with the present ability to affect such physical harm. Violent action that is destructive of property may necessitate the use of an Emergency Safety Intervention.
 2. All school staff members must be trained on the use of positive behavioral intervention strategies, de-escalation techniques, and prevention techniques.
 3. If a student is physically restrained or secluded, the school district has extensive requirements regarding documenting the events and reporting to the student's parents and the Kansas State Department of Education.
- B. The Parties agree that the school district's contacting law enforcement regarding violent acts of students that results in the destruction of property and/or presents a reasonable and immediate danger of physical harm to such student or others with the present ability to effect such physical harm could be improved as follows:
[Discuss and list any changes that would improve the above reporting procedures]

VIII. KANSAS MANDATORY CHILD ABUSE REPORTING

- A. K.S.A. 38-2223 requires any school employee to promptly report suspected child abuse.
1. The report may be oral or written and is to be made to DCF, except when DCF is not open for business, then the reports shall be made to the appropriate law enforcement agency. K.S.A. 38-2223(c)(1).
 2. The report must include, if known, the name and address of the child; the name and address of the child's parents or those responsible for the child's care; location of the child if not at the child's residence; child's gender, race and age; reason why reporter suspects the child may be a child in need of care; if abuse or neglect or sexual abuse is suspected, the nature and extent of the harm to the child including any evidence of previous harm; and any other information that the reporter believes might be helpful in establishing the cause of the harm and the identity of persons responsible for harm.
 3. Teachers and other staff members may not always tell school administrators of the report, even though it is a recommended policy, as they are independent reporters under the law.
- B. The Parties agree that the required reporting of child abuse could be improved by the following:
[Discuss and list any changes that would improve the local procedures for reporting to law enforcement]

IX. DURATION AND MODIFICATION OF THE MEMORANDUM OF UNDERSTANDING

- A. This Memorandum shall become effective immediately upon its execution by all Parties hereto and shall remain in full force and effect until such a time as terminated in writing by any party to this Memorandum. This Memorandum shall terminate effective the day written termination is provided to all Parties. This Memorandum may be modified at any time by written amendment to the Memorandum by all Parties hereto.

- B. The Parties acknowledge and agree to meet (on a monthly or a regular basis) for the first year of implementation to provide oversight of the Memorandum by reviewing data and making recommendations on any needed modification to the Memorandum to the heads of each agency a party to this Memorandum. Following the first year of implementation, the Parties agree to meet as all Parties deem necessary.

- C. *[Insert name and number of school district]* will host and staff the (monthly or regular) oversight meetings and any future meetings deemed necessary to facilitate implementation of the Memorandum process.

IN WITNESS WHEREOF, the Parties hereto, intending to cooperate with one another, have hereunder set their hands on the date set forth below.

[insert name of superintendent], Superintendent
[insert name and number of school district]

Date

[insert name and title of party]
[insert name of organization]

Date

[insert name and title of party]
[insert name of organization]

Date

[insert name and title of party]

[insert name of organization]

Date

[Parties must include, at a minimum, all local law enforcement agencies, courts, and the county or district attorney's office.]



Serving Educational Leaders,
Inspiring Student Success



Sample Memorandum of Understanding Instructions

This document is designed to support your school district in complying with the requirements under K.S.A. 2016 Supp. 72-89b03(i). These requirements include developing and approving a memorandum of understanding (Memorandum) developed in collaboration with relevant stakeholders, including local law enforcement agencies, courts, and the county or district attorney. This Memorandum must establish clear guidelines for how and when school-based behaviors are referred to law enforcement or the juvenile justice system. The goal of the Memorandum is to reduce these referrals and to protect public safety.

To assist you in the creation of this Memorandum, the Kansas Association of School Boards (KASB) and the Kansas State Department of Education (KSDE) worked collaboratively to create these instructions and the accompanying sample Memorandum. We encourage you to use the sample Memorandum that we have created, but you are not required to. If you do not use the sample Memorandum you must draft your own Memorandum that conforms with the requirements of K.S.A. 2016 Supp. 72-89b03(i). Your district's Memorandum must be developed and approved by July 1, 2017.

The sample Memorandum also contains some issues that school districts are required by law to report to local law enforcement or requires certain local stakeholders to cooperate and work together. School districts may want to review these requirements and discuss them as part of the Memorandum. School districts are also welcome to delete them, if they would prefer not to review any of these items as part of the Memorandum. These issues are included in sections IV–VIII of the sample Memorandum.

Identify the Relevant Stakeholders and Organize a Meeting

- The superintendent or the superintendent's designee will identify all relevant local stakeholders to this process. Relevant stakeholders must include, at a minimum, representatives from all local law enforcement agencies, courts, and the county or district attorney. Other relevant stakeholders would be any community organizations involved in law enforcement or juvenile justice.
- Once the relevant stakeholders have been identified, invite those stakeholders to a meeting to discuss this Memorandum. The school district is responsible for coordinating this meeting. Find a meeting time and place where representatives of all required stakeholder organizations can be present.

- When inviting stakeholders, it will be helpful to explain the purpose of the meeting and to provide a copy of the sample Memorandum in advance so that the stakeholders understand the intent of the meeting.

Hold a Meeting (or Meetings) to Develop and Approve a Memorandum of Understanding

- Use the sample Memorandum to guide your discussion on establishing clear guidelines for how and when school-based behaviors will be referred to law enforcement or the juvenile justice system. Focus on your goal of reducing such referrals and protecting public safety.
- On page 1 fill in the names of all relevant stakeholder organizations, as directed. If stakeholders other than those required attend this meeting, create a new section to record the names of those stakeholder organizations.
- In section I. A. fill in the names of the organizations that will be bound by the Memorandum. Those bound by the Memorandum must include, at a minimum, representatives from the school district, all local law enforcement agencies, courts, and the county or district attorney.
- In section III. B. fill in the information, as directed, to reflect what occurs in this situation in your community.
- Discuss which party to the Memorandum is most appropriate to handle Memorandum oversight. This party will be responsible, under III. D., for reviewing all intake summaries to determine whether the Memorandum was followed. If this party determines that the Memorandum was not followed, such party is responsible for convening a discussion of all relevant parties as directed in the sample Memorandum.
- Sections IV–VIII are not required to be included in the Memorandum required by K.S.A. 2016 Supp. 72-89b03(i). However, these are issues that school districts are required by law to report to local law enforcement or requires certain local stakeholders to cooperate and work together. The school district may want to review these requirements and discuss them as part of the Memorandum or delete them, if the school district would prefer not to review any of these items as part of this Memorandum.
- All parties to the Memorandum should sign the Memorandum where indicated. Those parties must include, at a minimum, representatives from the school district, all local law enforcement agencies, courts, and the county or district attorney.

Meetings Following Approval of the Memorandum

- The superintendent or superintendent’s designee will work with all parties to the Memorandum to create a schedule of monthly or regular meetings in the first year following the approval of the Memorandum.
- After the first year following the approval of the Memorandum the parties will meet when all parties deem necessary.
- The district will host and staff all meetings following approval of the Memorandum.

Modifying or Terminating the Memorandum

- The Memorandum may be modified at any time by written amendment by all parties to the Memorandum.
- The Memorandum is terminated the day written termination is provided to all parties. In the event this Memorandum is terminated, the superintendent or superintendent's designee should organize a meeting of all relevant stakeholders to develop and approve a new Memorandum of Understanding that meets the requirements of K.S.A. 2016 Supp. 72-89b03(i).

Inform Relevant District Staff

- The superintendent or the superintendent's designee should inform all relevant district staff of the contents of the Memorandum and their specific responsibilities under the Memorandum.
- Identify the district procedure for staff to notify the superintendent or the superintendent's designee of incidents where staff believes the Memorandum was violated.
- The superintendent or the superintendent's designee should determine what information regarding the Memorandum, if any, is necessary to provide to the local board of education and families.

Questions?

Please contact KASB at (785) 273-3600 or KSDE at (785) 296-3743.