State of New Jersey
OFFICE OF THE ATTORNEY GENERAL
DEPARTMENT OF LAW AND PUBLIC SAFETY
PO BOX 080
TRENTON NJ 08625-0080

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

JOHN J. HOFFMAN
Acting Attorney General

August 31, 2015

TO: County Prosecutors
Executive County Superintendents

FROM: John Jay Hoffman, Acting Attorney General
David C. Hespe, Commissioner, Department of Education

SUBJECT: *Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials*

We are pleased to announce the release of the revised *Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials* (2015 Revisions) (revised MOA). The revised MOA was developed by the Attorney General's Education and Law Enforcement Working Group, and is based upon earlier memoranda of agreement that were issued in 1988, 1992, 1999, 2007 and 2011. All school districts are required by regulations (*N.J.A.C.* 6A:16-6.2(b)13 through 14) promulgated by the New Jersey State Board of Education to adopt and implement policies and procedures that are consistent with the MOA approved by the Attorney General and the Commissioner of Education.

Accordingly, all public school districts, charter and Renaissance schools, jointure commissions, educational services commissions and approved private schools for students with disabilities are required to adopt and implement the attached revised MOA. The Executive County Superintendents and county prosecutors shall disseminate the revised MOA to local education and law enforcement officials, and shall ensure that the revised MOA is signed and implemented.

The revised MOA should be discussed and signed as soon as possible for each school district and municipality. The revised MOA will be available in both PDF and Word on the Department of Education's website at http://www.state.nj.us/education/students/safety/behavior/law/moa and the Division of Criminal Justice's website at http://www.state.nj.us/oag/dcj/guides.htm. For additional information, please see the attached document entitled *Procedures to Facilitate Updating the Uniform State Memorandum of Agreement Between Education and Law Enforcement Officials (MOA).*

To assist in the process of discussing and signing the revised MOA, the following points should be kept in mind:

Revisions to the MOA: While school districts are free to customize the revised MOA to include additional local provisions to address specific problems and concerns, districts are **not** permitted to delete

or alter provisions of the uniform MOA, pursuant to *N.J.A.C.* 6A:16-6.2(b)14ii. This agreement is a product of careful and thorough negotiations conducted by state, county and local representatives throughout the educational and law enforcement communities.

Private Services: Public school districts which enter into contracts with private vendors, such as bus companies or private schools, should make sure these organizations are aware of the agreement and their responsibilities under the revised MOA. The agreement should follow the student, thereby requiring the private vendor or other organization to adhere to the signed MOA, especially as it relates to the reporting of incidents.

Annual Updates: Once the revised MOA has been signed, annual updates will be required for each subsequent school year, pursuant to *N.J.A.C.* 6A:16-6.2(b)14.

Major New Features of the Revised MOA:

The 2015 version of the MOA is in response to new provisions of State law that went into effect after the 2011 MOA was disseminated, issues that have been recently brought to the forefront through high-profile incidents, and relevant laws that had been previously omitted to assist school officials and law enforcement in their efforts.

Article 4.1.2 **Overdose Prevention Act**
This new article outlines the law which provides legal protection in the form of immunity from arrest, prosecution or conviction for a use or simple possession drug charge when a person, in good faith, seeks medical assistance for him/herself or another.

Article 4.1.4 **Self-Administration of Medication by Students**
This new article clarifies the circumstances for self-administration of medication by students for specific medical conditions.

Article 4.1.5 **Compassionate Use Medical Marijuana Act**
This new article outlines the law which protects individuals, who use marijuana to alleviate suffering from debilitating medical conditions, from arrest, prosecution, property forfeiture, criminal and other penalties.

Article 8.7 **Cyber-Harassment**
This new article has been added to specify the rules of New Jersey criminal code that now include a separate and distinct offense for cyber-harassment, targeting online communications meant to harm, annoy, or threaten another and the special conditions for juvenile cyber-harassment offenders.

Article 8.6 **Hazing**
This article has been revised to further clarify that harassment, intimidation, or bullying may constitute hazing, a criminal offense, and the reporting requirements between school officials and law enforcement.

Article 8.9 **Coordination of HIB and Criminal Investigations**
This revised article expands the information provided in the previous MOA to add specific provisions in effect when an HIB investigation and criminal investigation

intersect. It clarifies when a school district should suspend or "stay" its investigation while adhering to the spirit of the *Anti-Bullying Bill of Rights Act* (*N.J.S.A.* 18A:37-13 et seq.).

In addition, educators and law enforcement should work together to address the sharp rise in "swatting" incidents. Swatting is the act of placing a false report of an ongoing emergency with a 9-1-1 operator, tricking that operator into dispatching heightened response units — such as bomb squads or SWAT teams — to a certain address. These incidents place both responders' and victims' lives in jeopardy and can cost tens of thousands of dollars per incident. Continued communication between educators and law enforcements continues to be vital for the safety of our students.

The revised MOA is a critically important vehicle for securing our schools through effective cooperation between school officials and law enforcement authorities. The availability of an online PowerPoint highlighting the revisions to the MOA will be announced soon. Your diligence in reviewing, signing, and implementing the MOA is appreciated. We are available should you have questions or require assistance.

DCH/JJH

Attachment

c: Governor Chris Christie
Members, State Board of Education
Members, Attorney General's Education and Law Enforcement Working Group
Col. Rick Fuentes, Superintendent of State Police
Chris Rodriguez, Director, Office of Homeland Security and Preparedness
Elie Honig, Director, Division of Criminal Justice
Ron Susswein, Counsel to the Director, Division of Criminal Justice
Rebecca Ricigliano, Chief of Staff, Department of Law and Public Safety
Robert Lougy, First Assistant Attorney General, Department of Law and Public Safety
William Haldeman, Chief of Staff, DOE
Susan Martz, Assistant Commissioner, Division of Learning Supports and Specialized Services
Kathryn A. Whalen, Legal Specialist, DOE
Nancy Curry, Director, Office of Student Support Services, DOE
Kelly Allen, School Climate Specialist, Office of Student Support Services, DOE

Procedures to Facilitate Updating
the *Uniform State Memorandum of Agreement*
Between Education and Law Enforcement Officials (MOA)

- The chief school administrator should ***schedule meetings*** with the chief(s) of police or station commander(s), as appropriate, to discuss the revised MOA.

- At the conclusion of the meeting, five copies of the MOA are ***signed*** by the chief school administrator and the chief(s) of police or the station commander(s), as appropriate. Any and all additional approved MOA provisions and all school and law enforcement contacts are attached to each signed copy of the MOA.

- The five signed copies are ***forwarded*** to the executive county superintendent for ***approval***.

- The executive county superintendent ***signs*** the five MOAs and ***forwards*** them to the county prosecutor for ***approval***.

- The county prosecutor ***signs*** the five MOAs, ***retains*** one original copy for his or her files, and arranges for ***delivery*** of one original copy to the chief of police or station commander. The remaining three copies are ***returned*** to the executive county superintendent.

- The executive county superintendent ***retains*** one original copy for his or her file and arranges for the ***delivery*** of the other two original copies, one for the chief school administrator and one for the president of the board of education.

- Additional copies should be sent to each district principal (MOA Article 15.3) and any district participant at the annual revision meeting (MOA Article 16).