



## **POLICY REGARDING PREPARING AND SHARING STUDENT INCIDENT REPORTS AND OTHER STUDENT INFORMATION WITH THE BOSTON POLICE DEPARTMENT**

The Boston Public Schools ("BPS") is responsible for the safety and security of its students and school communities, and for ensuring that every student has the same opportunity to attend a school that is a safe place for learning. This responsibility requires BPS personnel to report school incidents to police when required by law. BPS personnel may also call police for assistance in responding to emergency situations. At the same time, BPS must abide by laws restricting the disclosure of students' education records to non-school officials, and ensure that protected information is not improperly transmitted to third parties.

Employees in BPS's Department of Safety Services work closely with school administrators to maintain safe learning environments for students and staff by both responding to incidents and by engaging in proactive partnerships with the schools they serve. These employees also serve as special officers licensed by the Boston Police Department ("BPD"), which supports the district by responding to incidents and investigating criminal activity. BPD employees, as non-school officials, do not have access to education records except in certain circumstances. The unique nature of Department of Safety Services employees' dual roles requires a policy that establishes consistent standards for preparing student incident reports and for sharing those reports with non-school officials. BPS also requires a policy that describes those circumstances in which BPS personnel must report school incidents to police, and that makes clear that school administrators are solely responsible for administering and documenting discipline in accordance with the BPS Code of Conduct.

### **WHAT THIS POLICY COVERS:**

This policy covers: (1) mandatory reporting by BPS personnel to BPD for certain incidents; (2) standards for Department of Safety Services employees in preparing an incident report; (3) protocol for sharing such reports and other student information; (4) creation of a school safety working group; and (5) training and compliance requirements.

This policy addresses sharing between Safety Services employees and BPD. For requirements governing students' education records and the legal requirements for sharing such records with families, school personnel, and other third-parties, please refer to Superintendent Circular LGL-07, Privacy of Student Information and Student

Record Procedures: How to Respond to Student Record Requests in Compliance with FERPA and State Law.

**PRINCIPLES:**

In developing this policy, The Boston School Committee and Boston Public Schools affirm the following principles:

1. All students have the right to feel safe and secure in school.
2. It is the responsibility of Boston Public Schools to provide for the safety and well-being of all students in its care and to ensure that they feel supported and secure in the learning environment.
3. It is the responsibility of the Boston Public Schools Department of Safety Services to enforce the law and to protect students, staff, guests, property, and school communities by responding to incidents as defined in section III(A) and by engaging in prevention and intervention strategies and initiatives that focus on student support.
4. It is the responsibility of school administrators to manage student conduct by implementing supports and interventions and by administering discipline in accordance with the BPS Code of Conduct.
5. Consistent with the Boston Trust Act, BPS will not cooperate with or assist in immigration enforcement activities, which include identifying, arresting, or detaining any person based solely on their immigration status or a suspected violation of federal civil immigration law, or providing personal information solely for the purpose of enforcing civil violations of U.S. immigration laws.

**LEGAL FRAMEWORK:**

The preparation and sharing of student education records and other student information by BPS personnel is governed by federal and state laws and local regulations. The Family Educational Rights and Privacy Act, 20 U.S.C. § 1232g; 34 CFR Part 99 (“FERPA”), and Massachusetts student records laws, G.L. c. 71, § 34D; 603 CMR 23.00, et seq. restrict access to a student’s education record (any information that identifies a student and is maintained by the school) (“education record”) to the eligible

student, parent, and authorized school personnel, unless a legal exemption applies. As BPS employees, Department of Safety Services employees are required to adhere to FERPA's disclosure restrictions with respect to education records, even when the disclosure is to other city departments, including BPD. Department of Safety Services employees, however, also qualify as a BPS "law enforcement unit" under FERPA. Records created and maintained by a law enforcement unit, such as incident reports, are not considered education records under FERPA and therefore are not subject to disclosure restrictions. Department of Safety Services employees are also special officers licensed by BPD pursuant to BPD Rule 400A, and are required to comply with BPD rules and directives. Finally, there are several Massachusetts laws that either require school officials to report certain incidents to police, or provide BPD with the exclusive authority to investigate and report on certain crimes.

## **I. DEFINITIONS**

For purposes of this policy, the following terms shall have the following meanings:

**BPD** means the Boston Police Department, which includes the Boston Regional Intelligence Center (BRIC).

**BPD 1.1** means the Incident Report that is prepared by officers and special officers of the Boston Police Department and is filed with and maintained by the Boston Police Department.

**Code of Conduct ("COC")** means the Boston Public Schools Code of Conduct.

**Crimes** means all criminal and delinquency offenses.

**Incident Report** means a written record created by a Department of Safety Services employee that pertains to student or school activity, in the form of an SSR1 or a BPD 1.1. These reports, because they are created by Safety Services and are maintained by either BPS or BPD are typically not considered educational records and are thus not protected under FERPA, unless they are used for school disciplinary purposes.

**Intelligence Report** means any written report or narrative created by a Department of Safety Services employee that pertains to student activity other than the activity permitted to be documented in an Incident Report by this policy, including activity that is

documented for intelligence gathering purposes or for the sole purpose of reporting observations.

**School Safety Report or SSR1** means the Incident Report that is prepared by Safety Services employees and is filed with Safety Services.

**Safety Services** means the Boston Public Schools Department of Safety Services.

**Safety Services employees** means employees in Safety Services who are employed by BPS and licensed as special officers by BPD.

**School Administrator** means the school leader, building administrator, or other school official who is responsible for overseeing discipline in the school.

**Student Activity** means any activity involving one or more BPS students occurring on BPS property, on BPS buses, at or near school bus stops, while BPS students are on their way to and from school, and while BPS students are participating in any school-sponsored activities, whether on or off school grounds.

## II. REPORTING ACTIVITY TO THE BOSTON POLICE DEPARTMENT

Several Massachusetts laws require BPS personnel to notify police about certain incidents and to provide information necessary for police to investigate:

- Missing child - G.L. c. 22A, § 4;
- Student in possession of a dangerous weapon at school - G.L. c. 71, § 37L;
- Incident of bullying or retaliation when there is a reasonable basis to believe that criminal charges may be pursued against the aggressor, unless the principal determines that the bullying and retaliation can be handled appropriately within the school or district - G.L. c. 71, § 37O; 603 CMR 49.06(2).

Other laws establish BPD's authority to investigate and document certain incidents:

- Incidents of rape or sexual assault - G.L. c. 41 § 97D (please refer to Superintendent's Circular EQT-3, Sexual Misconduct Towards Students, for BPS protocol for reporting these incidents);
- Incidents involving stalking or harassment or a violation of a restraining order - G.L. c. 258E, § 8.

BPS has also established a protocol for reporting certain incidents to police. Please refer to Superintendent's Circular SAF-04, Incident Data--Reporting and Release.

### **III. REQUIREMENTS FOR SAFETY SERVICES EMPLOYEES - PROCEDURES FOR PREPARING AND SHARING INCIDENT REPORTS**

#### **A. INCIDENT REPORT PREPARATION BY SAFETY SERVICES EMPLOYEES**

Safety Services Employees may only document Student and non-Student Activity pursuant to the provisions of sections 1 and 2 below. As described in section 3 below, activity that is not listed in sections 1 or 2 may only be documented by the School Administrator, if the School Administrator determines that such activity may qualify as a violation of the Code of Conduct.

##### **1. CRIMINAL ACTIVITY**

Safety Services employees may document only the following Student Activity by preparing and filing a BPD 1.1:

- (a) All felony Crimes;
- (b) Non-felony Crimes of assault and battery, hazing, those involving stalking behavior or sexual behavior, and threats that could have caused the person to whom they were conveyed to fear that the speaker had both the intention and ability to carry them out;
- (c) Possession of and possession with intent to distribute controlled substances as defined in G.L. c. 94C (other than possession of 2 ounces or less of marijuana, pursuant to G.L. c. 94C, §§ 32L and 32M);
- (d) Possession of dangerous or electrical weapons;
- (e) Other non-felony Crimes where a victim or victim's parent or guardian requests a report.

In determining whether Student Activity falls within the above classifications, Safety Services employees must adhere to the provisions of G.L. c. 71, § 37P which in part require that "SROs [school resource officers] shall not serve as school disciplinarians, as enforcers of school regulations or in place of licensed school psychologists, psychiatrists or counselors and that SROs shall not use police powers to address traditional school discipline issues, including non-violent disruptive behavior."

## 2. NON-CRIMINAL ACTIVITY

Safety Services employees may document only the following Student Activity using a School Safety Report (SSR1):

- (a) missing child ( BPD may also write a BPD 1.1., see above);
- (b) sick/injury assist;
- (c) medical evaluation or other medical emergency (BPD also responds to medical-related incidents when an ambulance is called and completes a BPD 1.1).

SSR1s may also be prepared for non-Student Activity, including but not limited to (i) found property or evidence; (ii) found needles/syringes; (iii) found weapons; (iv) found controlled substances; (v) found property damage/graffiti; (vi) hazardous material incident; (vii) safe mode/containment drill; (viii) trespass.

## 3. OTHER ACTIVITY NOT LISTED ABOVE

- a. If an activity is not listed above, it shall not be documented in a Incident Report. Student Activity that occurs in school and that may qualify as a violation of the Code of Conduct must be documented by the School Administrator or designee in the BPS Student Information System (SIS).
- b. When a Safety Services employee is the first to respond to or witness such activity, the Safety Services employee must report such activity to the School Administrator, but may not prepare an Incident Report. If the School Administrator determines that such activity may qualify as a violation of the Code of Conduct, the School Administrator must document such activity in the BPS Student Information System (SIS).
- c. Safety Services employees shall not prepare Intelligence Reports.

## **B. INFORMATION CONTAINED IN AN INCIDENT REPORT**

- 1. Because Safety Services employees may be considered school officials with access to students' education records, they may not redisclose information obtained from those education records to non-school officials without consent or pursuant to an exemption to FERPA or state law, such as in the event of a health or safety emergency. Therefore, Incident Reports may not be prepared using information

obtained from an education record, except for “Directory Information,” as defined by BPS in its annual Guide to the Boston Public Schools.<sup>1</sup>

2. Where FERPA and state student records laws only apply to the disclosure of education records, they do not prohibit the preparation of an Incident Report based on a Safety Services employee’s personal knowledge or observations. However, Safety Services employees shall not use personal knowledge or observations to prepare an Incident Report if:

- (a) the knowledge was originally obtained from an education record;
- (b) the knowledge or observations are not directly related to the explicit situation for which the Incident Report is prepared.

3. In no event shall an Incident Report contain the following information:

- (a) Immigration status
- (b) Citizenship
- (c) Neighborhood of residence
- (d) Religion
- (e) National origin
- (f) Ethnicity
- (g) Students’ native or spoken language
- (h) Suspected or alleged gang involvement, affiliation, association, or membership
- (i) Participation in school activities, extracurricular activities outside of school, sports teams, or school clubs or organizations
- (j) Degrees, Honors, or Awards
- (k) Post-high school plans

#### **IV. PROTOCOL AFTER AN INCIDENT REPORT IS PREPARED**

Safety Services employees are required by BPD to prepare and file BPD 1.1s at the BPD district station on the same day the incident occurs. Once filed, the BPD 1.1 is a BPD record.

Prior to preparing a BPD 1.1, a Safety Services employee shall inform the School Administrator. Within 24 hours of receiving notification of an Incident Report, the School Administrator shall communicate with affected students and their families to discuss the

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<sup>1</sup> For the 2020-2021 school year, “Directory Information” shall be limited to: student’s name, age, grade level, and dates of enrollment.

incident resulting in the BPD 1.1 or SSR1. The School Administrator shall also notify their supervisor or school superintendent. Families shall be notified that they may request a copy of the SSR1 from the school in the student's or family's native language or a copy of the BPD 1.1. from the BPD headquarters. BPS shall make a list of local legal resources available to families in its annual Guide to the Boston Public Schools.

## **V. SHARING INCIDENT REPORTS AND STUDENT INFORMATION WITH THE BOSTON POLICE DEPARTMENT**

### **A. SHARING INCIDENT REPORTS**

1. When a BPD 1.1 is filed, it is a BPD report.
2. Safety Services employees may not share any other Incident Report with any individual or entity other than the BPS Chief of Safety Services or Deputy Chief of Safety Services. The Chief and Deputy Chief shall only share Incident Reports with the liaison from the BPD School Unit, except if disclosure to other individuals or entities is required by court order or subpoena or pursuant to the public records law .

### **B. SHARING STUDENT INFORMATION NOT CONTAINED IN AN INCIDENT REPORT**

1. Safety Services employees may only share information obtained from an education record pursuant to an exception to FERPA or state law (such as providing Directory Information, responding to a subpoena or court order, or in the event of a health or safety emergency), or when such information is based on an employee's personal knowledge, subject to the limitations of section III(B)(2) above, which include that the knowledge or observations must be directly related to the explicit situation for which the information is sought.
2. Even when such sharing is permitted, Safety Services employees may not share any information concerning a student with any individual or entity other than the BPS Chief of Safety Services or Deputy Chief of Safety Services. The Chief and Deputy Chief shall only share information concerning a student with the liaison from the BPD School Unit. Immigration status or citizenship of a student, even if known based on an employee's personal knowledge, may not be shared. Other information listed in III(B)(3) above that is known based on an individual's personal knowledge may only be shared subject to the limitations in section III(B)(2) above and if determined by



the Chief or Deputy Chief to be relevant to the request for such information. The only exceptions to these rules are situations where it is necessary for Safety Services employees to transmit student information to non-school officials in order to respond to an immediate health or safety emergency.

3. Under the health or safety emergency exception, sharing information obtained from an education record is permitted when necessary to protect the health or safety of students or other individuals in connection with an actual, impending, or imminent emergency, and is limited to the period of the emergency. In making their determination of whether a situation rises to the level of a health or safety emergency, School Administrators may rely on BPD's assessment of a particular situation or incident.

## **VI. REPORTING AND AUDIT PROCEDURES**

### **A. MONTHLY REPORTING**

1. At the end of each month, Safety Services shall submit data for the preceding month to the superintendent. The data shall include: (i) number of Incident Reports written; (ii) for each Incident Report, the date of the incident, the nature of the activity, student age, grade, school, race, and whether the report was written in connection with an arrest; (iii) for each Incident Report shared externally, when and to whom it was shared; and (iv) a log of information shared pursuant to the health or safety exception. Specifically for SSR1s, the data shall also include why the data was shared and who authorized the sharing.

### **B. AUDITS**

1. No less frequently than twice per school year, the superintendent shall direct a central office audit of Incident Reports and other communications prepared or transmitted by Safety Services employees. At the superintendent's request, Safety Services shall provide the superintendent with copies of Incident Reports or other communications prepared or transmitted during a 30 day period as determined by the superintendent. The superintendent or designee shall audit such Incident Reports to determine whether they were prepared in compliance with this policy, and shall prepare a report summarizing the findings to share with the School Safety Working Group, described below.

## **VII. SCHOOL SAFETY WORKING GROUP**

A. The superintendent shall establish a School Safety Working Group (“Working Group”) that will be charged with further discussing issues related to this policy, receiving reports from the superintendent about the district’s implementation of this policy, and making recommendations to the School Committee.

B. The Working Group shall be composed of 12 members, representing the following groups: (i) a BPS student, nominated by the immigration, youth or community advocacy organization noted in (vi) below, with preference given to a student who attends a school that has historically experienced a high volume of arrests or Incident Reports; (ii) a parent or guardian chosen by the Citywide Parent Council; (iii) a member of the Boston Special Education Parents Advisory Council (SpEdPAC); (iv) a teacher chosen by the Boston Teachers Union (BTU); (v) a school leader, assistant principal or dean from a school with an assigned Safety Services employee, chosen by the superintendent; (vi) a representative from an immigration, youth, or community advocacy organization chosen by the School Committee; (vii) a representative from the BPS Office of Opportunity Gaps; (viii) a representative from the BPS operational leader team, or other BPS central office representative with responsibility for advising School Administrators on the Code of Conduct; (ix) a representative from the BPS Department of Safety Services; (x) an individual, who is not an employee of the City of Boston, with expertise in law enforcement and school safety laws and regulations, chosen by the School Committee; and (xi) two representatives from the superintendent’s student data working group (which made recommendations on this policy), nominated by the working group.

C. The Working Group shall meet with the superintendent or her/his designee on a quarterly basis for a presentation of the monthly data reports described in section VI(A)(1) for the past quarter. After the first year of the implementation of this policy, the Working Group shall meet with the superintendent or her/his designee on a semi-annual basis. The Working Group shall be provided with the data to be presented no later than 5 business days prior to each meeting. The Working Group may make recommendations to the superintendent during these meetings. The superintendent may choose to publish additional data related to this policy.

D. The Working Group shall make an annual presentation to the School Committee on its findings and recommendations.

E. Any records or data shared with the Working Group shall not contain identifying information about students, victims, witnesses, or other individuals, including details of incident narratives that may allow such individuals to be identified.

## **VIII. TRAINING AND COMPLIANCE**

### **A. ANNUAL ACKNOWLEDGMENT**

1. All BPS employees will sign an acknowledgment of responsibility for safeguarding student information under this policy, FERPA, and state student records laws.

### **B. TRAINING**

1. BPS shall design and provide training on this policy pursuant to the provisions below.
2. Safety Services employees shall receive training on this policy upon hire and every year thereafter. Safety Services employees may also receive training pursuant to Rule 400A, as determined by BPD.
3. School Administrators shall receive training on this policy upon hire and every three years thereafter.

### **C. COMPLIANCE**

1. Violations of this policy may subject BPS employees to discipline, up to and including termination.

## **IX. PUBLICATION**

A summary of this policy shall be included in the annual BPS Guide to the Boston Public Schools, and shall be made available translated in BPS's nine major languages. The superintendent may issue a circular that further directs the implementation of this policy.

## **X. ANNUAL REVIEW**

In order to periodically assess this policy's effectiveness, the School Committee shall review this policy on an annual basis and determine whether any revisions are necessary. The annual review may occur in conjunction with the Working Group's annual presentation to the Committee.