

MEMORANDUM OF UNDERSTANDING

This agreement is dated this third day of September 2009 between Phillips Exeter Academy and the Exeter Police Department. It is the intention of Phillips Exeter Academy and the Exeter Police Department to work in a joint cooperative effort to provide a safe and healthy school environment for students, faculty, staff and visitors. We intend to do this in compliance with New Hampshire R.S.A. 193-D, Safe School Zones, as amended.

As required by law, it is agreed that every school employee who has witnessed or who has information from the victim of an act of theft destruction, or violence in a safe school zone shall report such act in writing immediately to a supervisor. A supervisor receiving such report shall immediately forward the information to the school principal (or his/her designee) who shall file it with the Exeter Police Department. The report shall be made by the Principal (or his/her designee) by telephone to the Exeter Police Department immediately and shall be followed within 48 hours by a report in writing.

ADMINISTRATIVE RESPONSIBILITY

Phillips Exeter Academy shall have in place administrative procedures for other members of the school staff to be charged with the reporting responsibility in the event the principal is unavailable.

CONFIDENTIALITY

New Hampshire RSA 193-D:79 states:

Notwithstanding any other provision of law it shall be permissible for any law enforcement officer and any school administrator to exchange information relating only to acts of theft destruction or violence in a safe school zone regarding the identity of any juvenile, police records relating to the juvenile or other relevant information when such information reasonably relates to delinquency or criminal conduct, suspected delinquency or suspected criminal conductor any conduct which would classify a pupil as a child in need of services under RSA 169-D, or a child in need of protection under RSA 169-C.

CONTENT OF REPORTS

The oral and written reports required by this memorandum should include, to the extent possible

- (a) Identification of the act of theft, destruction or violence as defined by RSA 193-D:I that was allegedly committed;
- (b) The name and address, if known of any witness to the act of theft, destruction or violence in a safe school zone; and
- (c) The name and home address, if known of any person suspected of committing and act of theft, destruction or violence in a safe school zone.

The written report required by this memorandum may be waived by law enforcement officials when there is a law enforcement response at the time of the incident, which results in a written police report.

REPORTABLE ACTS

"Acts of theft, destruction or violence" shall mean the following, regardless of the age of the perpetrator, and shall be reported as required above:

(a) Homicide under RSA 630

Any death shall be immediately reported to law enforcement officials regardless of the suspected cause.

(b) First or Second Degree Assault under RSA 631

This will include any serious injury to a person caused knowingly, purposely, recklessly or negligently by another person. Police investigation may reveal that not all of these incidents constitute an actual crime. However, reporting will allow a police investigation to be conducted.

(c) Any felonious or aggravated felonious sexual assault under RSA 632-A

All acts of sexual contact under RSA 632-A:2,I,a - m; II & III and any acts of sexual contact under RSA 632-A:3,1,II & III

(d) Unlawful possession or sale of a firearm or other dangerous weapon under RSA 159

Due to the tremendous potential for serious bodily injury or death when firearms are present, any person in possession of a firearm within safe school zones will be reported, except recognized law enforcement personnel, theater productions that utilize non-functioning weapons, and faculty and administrative personnel who live on campus.

(e) Arson under RSA 634:1

Any person who knowingly starts any fire or causes any explosion that unlawfully damages the property of another, or is done with the intentional disregard for the safety of others, is included in this section.

(f) Burglary under RSA 635

Any person who enters a building or separately secured section of a building, with a purpose to commit a crime therein, unless the premises are at the time open to the public or the actor is licensed or privileged to enter.

(g) Robbery under RSA 636

This includes any person who, in the course of committing a theft, he:

- a. Uses physical force on the person of another and such person is aware of such force; or
- b. Threatens another with or theft that is accomplished by the use of physical force or the threat of physical force.

(h) Illegal sale or possession of a controlled drug under RSA 318-B

Reports will be made on any substance, other than a food, that affects the way your mind and body work, excepting legally prescribed medication possessed by the patient and/or a staff member from Health Services.

(i) Theft under RSA 637

Theft is the obtaining or exercising of unauthorized control over the property of another with a purpose to deprive him thereof. For practical purposes, thefts involving a value of five hundred dollars (\$500.00) or less will be handled by school faculty and administrators and not reported to the Exeter Police Department.

Additionally, "an act of theft, destruction or violence" may mean the items set forth below when, in the opinion of the reporting individual, it is of serious proportion:

(a) Simple assault under RSA 631:2-a

This includes a person who purposely or knowingly causes bodily injury or unprivileged physical contact with another; or recklessly causes bodily injury to another; or negligently causes bodily injury to another by means of a deadly weapon. The parties recognize that this can be very minor contact and that the Principal (or his/her designee) will consider the PEA disciplinary policy when making a determination about whether or not to file a safe school zone offense report.

(b) Criminal mischief under RSA 634:2

This includes a person who, having no right to do so, nor any reasonable basis for belief of having such a right, purposely or recklessly damages property of another.

DEFINITIONS

The following terms, as defined in RSA 193-D:I, apply to this memorandum:

"Safe school zone" means an area inclusive of any school property of school buses.

"School employee" means any school administrator, teacher, or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing or performing continuing contract services for any public or private school, school district, school department of school administrative unit.

"School property" means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.

"School purposes" means school-sponsored programs, including but not limited to educational or extra curricular activities.

Nothing contained in this memorandum is intended to limit the events that may be reported to the Exeter Police Department or to limit school employees from requesting police assistance on matters not referred to in this memorandum.

INTERVIEWS

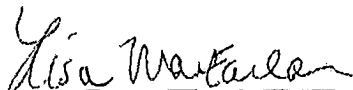
Phillips Exeter Academy acting as the parent (loco parentis) for its student body. If a police officer should need to interview a student, a member of the department will contact the Office of Campus Safety to arrange for the interview. Campus Safety will work in conjunction with the office of the Dean of Students to ensure an appropriate representative of the school is present during the interview for those students under the age of eighteen (18).

HANDLING OF CONTROLLED DRUGS

It is agreed that once any controlled drug is located during a room search or discovered in any other fashion on the campus of Phillips Exeter Academy, the Principal or his designee will immediately inform the Exeter Police Department so that arrangements can be made for a police officer to take immediate possession of the drug. The drugs shall not be moved, packaged or transported prior to the arrival of the police.

TRAINING

Phillips Exeter Academy and the Exeter Police Department agree to provide their employees with ongoing training relative to this memorandum of understanding, its purpose and anticipated results. The parties further agree to maintain regular and open communication to evaluate the effect of this memorandum and suggest improvements and adjustments that may be necessary.



Lisa MacFarlane
Phillips Exeter Academy

4/27/16



William Shupe
Chief of Police
Exeter, NH

4-27-16

**NEW HAMPSHIRE STATE POLICE
CONTINUATION OF INVESTIGATION REPORT**

1. CASE NO. MC16-07545	2. INVESTIGATING TROOPER Mallory S. Littman	3. I.D. NO. 1123	4. TOWN OF CRIME Exeter	5. TN. CD.	6. DATE OF REPORT
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On May 10, 2016, the New Hampshire State Police – Major Crime Unit was asked to assist the Exeter Police Department and the Rockingham County Attorney’s Office in investigating violations of the Child Protection Act and non-reporting issues by Phillips Exeter Academy employees, located at

**20 Main Street
Exeter, NH 03833.**

On August 22, 2016 as part of this investigation,

**Sergeant John Sonia
New Hampshire State Police – Major Crime Unit**

assigned

**Trooper Tara Elsemiller
New Hampshire State Police – Major Crime Unit**

and me to contact various individuals that were identified through

**Analyst Tracey Flaherty’s
New Hampshire State Police – Major Crime Unit**

records examination as victims or witnesses of sexual assault allegations. These reports were made to Phillips Exeter Academy and then given to Exeter Police Department in response to letters that

**President Lisa MacFarlane
Phillips Exeter Academy**

sent to current student’s parents and alumni on February 26, 2016. See attached letters.

Trooper Elsemiller and I prepared reports outlining the individuals that we were assigned to contact. A gist of the conversations of the individuals that we were able to make contact with is included in our respective reports along with a list of the individuals who we were unable to speak with. See Trooper Elsemiller’s and my attached reports.

In speaking with several individuals, it was clear that the consensus is that there were no policies or procedures on reporting sexual assaults over the past few decades. It was known that things would be handled internally and that sexual assaults should be reported to the Deans. They spoke about the unapproachability of the Deans to report uncomfortable situations. Many individuals explained that Phillips Exeter Academy was a closed community and that even if there was gossip about specific faculty members nothing would be done about it. Many alumni have tried to reach out

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to people at the academy with not much response over the years. They feel that it is time for the school to be transparent and to do things the right way going forward. In speaking with alumni, most of them wanted specific people that committed assaults to be held accountable although in most cases the statute of limitations have lapsed. They did not want specific members of the administration to be punished for not reporting the incidents. Most of the alumni spoke very highly of their overall experience at Phillips Exeter Academy although they feel that policies and procedures need to change.

End of Report.

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