

Joint Statement by Exeter Police Department and Phillips Exeter Academy

EPD, PEA Enter Enhanced Partnership of Cooperation

September 19, 2017 (Exeter, NH) --Police Chief William Shupe of the Exeter Police Department (EPD) and Principal Lisa MacFarlane of Phillips Exeter Academy (PEA) announce the signing of an enhanced Memorandum of Understanding (MOU) between the EPD and PEA. This long-term MOU replaces the existing one and was adopted to memorialize the cooperative effort by EPD and PEA to provide a safe and healthy school environment for students, faculty, staff and visitors.

This expanded MOU reflects the collaboration and participation of County Attorney Patricia Conway and the NH Coalition Against Domestic and Sexual Violence (NHCADSV), as well as PEA and the EPD. The agreement references the recent joint training of PEA faculty conducted by PEA, with guest trainers from EPD, County Attorney Conway, and HAVEN, the Seacoast affiliate of NHCADSV. Per the MOU, similar training of faculty, staff and students will be held annually.

The MOU incorporates the reporting obligations of adults who have reason to suspect that a child has been neglected or physically, sexually or emotionally abused. It also outlines the reporting requirements of three different statutes, the Child Protection Act, the Safe School Zones Act, and the Student Hazing law. The MOU outlines the duty of all adults, and underscores PEA's commitment to immediately report any act of sexual assault, regardless of the possible legal classification of the act or the time the act occurred. The intention of the partnership is to exceed the current requirements of New Hampshire statutes.

Other key points of the partnership under the MOU include:

- Upon learning of a possible assault or other violation of law, a PEA employee shall report it immediately to DCYF and/or EPD, as appropriate. Neither the employee nor anyone at PEA will conduct further investigation until the authorities have declined further investigation.
- Under the Child Protection Act, all adults in New Hampshire are required to report directly to DCYF. The MOU requires any PEA employee will also make a report to PEA's Director of Student Well-Being, who, with the General Counsel, will ensure—and make a written record—that all required reporting and MOU protocols have been complied with.
- PEA, the NHCADSV and law enforcement will jointly plan and conduct—at least once a year—training of faculty/staff on reporting

requirements, the MOU, and the care and support of survivors. PEA will maintain its commitment to regular and open communication with EPD and NHCADSV to jointly promote student safety and to make improvements to the MOU as needed.

- PEA has a current agreement with HAVEN (attached) to provide counseling and support services to victims. PEA will promote awareness of this agreement and will provide permission and transportation to any student requesting HAVEN services.
- The MOU provides procedures for the protection of victims during and after the pendency of an investigation, including free access to HAVEN or other confidential off-campus counselor.
- PEA will continue to educate its student body regarding sexual and dating violence and abuse, specifically concerning consent. PEA will also promote Sexual Assault Awareness Month each April.

PEA is beginning the final year of a three (3) year consulting agreement with the Prevention Innovation Research Center (PIRC) of the University of New Hampshire, which develops best practices for preventing sexual abuse. The MOU draws from PIRC's substantial contribution to promoting student safety and wellness on the PEA campus, as its work—including assessments of the student body and faculty/staff and a review of policy and training by PIRC—is reflected in the both the MOU and PEA policies.

Contact:

EPD – Chief William Shupe
603.772.1212
WShupe@exeternh.gov

County Attorney – Patricia Conway, Esq.
603.642.4249
PConway@rcao.org

PEA – Robin Giampa, Director of Communications
603.777.3358
RGiampa@exeter.edu

NHCADSV – Amanda Grady Sexton, Director of Public Affairs
603.548.9377
Amanda@nhcadsv.org

MEMORANDUM OF UNDERSTANDING

This agreement is dated this ^{15th} day of September 2017 between Phillips Exeter Academy (PEA) and the Exeter Police Department (EPD). It is the intention of Phillips Exeter Academy and the Exeter Police Department to enhance our 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. 169-C, the Child Protection Act, and New Hampshire R.S.A. 193-D, the Safe School Zones Act, and New Hampshire R.S.A. 631:7, the law governing Student Hazing. This agreement supersedes and replaces the previous agreement dated September 3, 2009.

I. Mandatory Reporting Pursuant to R.S.A. 169-C, the Child Protection Act.

- A. Pursuant to 169-C:29, all adults having reason to suspect that a child has been abused or neglected shall report the same to the New Hampshire Division of Children, Youth and Families (DCYF). DCYF can be contacted 24 hours a day, including weekend and holidays, at 1-800-894-5533. In order to ensure compliance with this law, Phillips Exeter Academy agrees that every school employee who, in the course of their employment at PEA, has reason to suspect that a child has been abused or neglected shall report such act immediately to DCYF, and, thereafter, to the Director of Student Well-being. The Director receiving such report shall immediately forward the information to the school's General Counsel (or her designee) who immediately shall report orally to DCYF, following the oral report within 48 hours with a written report. General Counsel (or her designee) shall also file a written report with the Exeter Police Department. The duty of an employee to report suspected neglect or abuse to PEA is in addition to the employee's mandated requirement to immediately report it to DCYF themselves.
- B. Pursuant to this Section I, Phillips Exeter Academy and the Exeter Police Department agree that any and all suspected acts of sexual abuse of a child, regardless of potential legal classification or the time in which they occurred, shall be reported to the Exeter Police Department. It is the intention of this provision to exceed the current requirements of New Hampshire reporting statutes.
- C. Phillips Exeter Academy shall have in place administrative procedures for other members of the school staff to be tasked with the institutional reporting responsibility described in this Section I in the event the Director of Student Well-being or General Counsel are unavailable.
- D. Any report required by this Section I shall contain, if known, the name and address of the child suspected of being neglected or abused and the person responsible for the child's welfare, the specific information indicating neglect or the nature and extent of the child's injuries (including any evidence of previous injuries), the identity of the person or persons suspected of being responsible for such neglect or abuse, and any other information that might be relevant in

establishing neglect or abuse or that may be required by DCYF or the Exeter Police Department.

- E. Phillips Exeter Academy will not undertake any investigation of any matter reportable under this Section I unless and until specifically cleared by an authorized representative of the Exeter Police Department to undertake such an investigation.

II. **Mandatory Reporting Pursuant to R.S.A. 193-D, the Safe School Zones Act.**

- A. As required by law, Phillips Exeter Academy agrees 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 or to the Campus Safety Department. A supervisor receiving such report shall immediately forward the information to the school's General Counsel (or her designee) who shall file it with the Exeter Police Department. Reports to the Exeter Police Department under this Section II shall be made by either the Campus Safety Department or General Counsel (or her designee) by telephone to the Exeter Police Department immediately and shall be followed within 48 hours by a report in writing. If the victim is a student, the general counsel (or her designee) shall also notify the student's parents as required by RSA §193-D (4)(I)(a). Nothing in this section is meant to prevent the school employee who has reason to suspect that a child has been abused or neglected from fulfilling their mandated reporting requirement under RSA 169-C:29 to immediately report it to DCYF themselves. DCYF can be contacted 24 hours a day, including weekend and holidays, at 1-800-894-5533.
- B. Phillips Exeter Academy shall have in place administrative procedures for other members of the school staff to be tasked with the reporting responsibility described in this Section II in the event General Counsel or a representative from Campus Safety are unavailable.
- C. 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 conduct or 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.
- D. The oral and written reports required by this memorandum should include, to the extent possible:
 - (i) Identification of the act of theft, destruction or violence as defined by RSA 193-D:I that was allegedly committed;

- (ii) The name and address, if known of any witness to the act of theft, destruction or violence in a safe school zone; and
 - (iii) The name and home address, if known of any person suspected of committing an act of theft, destruction or violence in a safe school zone.
- E. The written report required by this memorandum may be waived by the Exeter Police Department when there is a law enforcement response at the time of the incident, which results in a written police report.
- F. The following shall be reportable "Acts of theft, destruction or violence" under this Section II, regardless of the age of the perpetrator, and shall be reported as required above:

(i) Homicide under RSA 630

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

(ii) 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.

(iii) 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; and sexual assault under RSA 632:A-4.

Pursuant to this Section II, Phillips Exeter Academy and the Exeter Police Department agree that any and all suspected acts of sexual assault, regardless of legal classification or the time in which they occurred, shall be reported to the Exeter Police Department. It is the intention of this provision to exceed the current requirements of New Hampshire reporting statues.

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

Due to the 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.

(v) 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.

(vi) 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.

(vii) Robbery under RSA 636

Any person who in the course of committing a theft:

- 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.

(viii) Illegal distribution or possession of a controlled drug under RSA 318-B

Any distribution or possession of a controlled substance as defined by state and federal controlled substance laws, excepting prescribed medication legally possessed by the patient and/or a staff member from Health Services or other legal prescriber.

(ix) 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. Thefts involving a value of five hundred dollars (\$500.00) or less may be handled by school faculty and administrators and not reported to the Exeter Police Department.

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

Simple assault 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 include minor contact. The Principal (or her designee) will have discretion to make a determination whether to report the contact to the Exeter Police Department in light of the severity of the circumstances.

(xi) Criminal mischief under RSA 634:2

Criminal mischief 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. The Principal (or her designee) will have discretion to make a determination whether to report the contact to the Exeter Police Department in light of the severity of the circumstances.

G. The following terms, as defined in RSA 193-D:1, shall apply to this Section II:

- (i) "Safe school zone" means an area inclusive of any school property or school buses.
- (ii) "School employee" means any school administrator, teacher, or other employee, or any person providing or performing continuing contract services for Phillips Exeter Academy.
- (iii) "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.
- (iv) "School purposes" means school-sponsored programs, including but not limited to educational or extra-curricular activities.

III. Mandatory Reporting Pursuant to R.S.A. 631:7, the law governing Student Hazing.

- A. As required by law, Phillips Exeter Academy agrees that every school employee who has knowledge of any hazing shall report such act immediately to the Director of Student Well-being. The Director receiving such report shall immediately forward the information to the school's General Counsel (or her designee) who immediately shall file the report orally with the Exeter Police Department. General Counsel (or her designee) shall also file a written report with the Exeter Police Department.
- B. Phillips Exeter Academy shall have in place administrative procedures for other members of the school staff to be tasked with the reporting responsibility described in this Section III in the event the Director of Student Well-being or General Counsel are unavailable.
- C. Phillips Exeter Academy will not undertake any investigation of any matter reportable under this Section III unless and until specifically cleared by an authorized representative of the Exeter Police Department to undertake such an investigation.

IV. Additional Commitments.

- A. 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.
- B. Interviews. Phillips Exeter Academy acts as the parent (*in loco parentis*) for its students. 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), unless a student, with the knowledge and consent of his/her parents, chooses not to be accompanied to the interview. An exception to this is any interview conducted at the Child Advocacy Center (CAC). In following best practices and established protocol, neither school representatives nor parents will be present during or observe any interview conducted at the CAC.
- C. Handling of Controlled Substances. It is agreed that once any suspected controlled substance is located during a room search or discovered in any other fashion on the campus of Phillips Exeter Academy, the Principal (or her designee) will immediately inform the Exeter Police Department so that arrangements can be made for a police officer to take immediate possession of the substance. The suspected controlled substance shall not be moved, packaged or transported prior to the arrival of the police.
- D. 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.

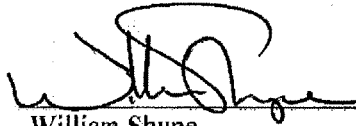
Phillips Exeter Academy agrees that it shall provide training at least annually to all applicable personnel regarding this memorandum of understanding and their roles as mandated reporters, as well as their duty to report under New Hampshire R.S.A. 169-C, the Child Protection Act, and New Hampshire R.S.A. 193-D, the Safe School Zones Act, and New Hampshire R.S.A. 631:7, the law governing Student Hazing. At least one of the training sessions offered shall include a presentation by a member of the Exeter Police Department, the Rockingham County Attorney's Office, and an outside victim advocacy organization, such as the New Hampshire Coalition Against Domestic and Sexual Violence (NHCADSV), its local member HAVEN, or other designee.

Phillips Exeter Academy agrees that it shall provide comprehensive education at least annually to the student body regarding sexual and dating violence and abuse, specifically including issues involving consent. Phillips Exeter Academy will promote Sexual Assault Awareness Month in April every year.

- E. Phillips Exeter Academy shall have a formalized procedure established on how to prevent contact between a victim and an alleged perpetrator during the course of any law enforcement investigation. This includes directing the alleged perpetrator to have no direct or indirect contact by any means with the victim. In no case shall the victim have his or her schedule, routine, activities, or any other aspect of campus life altered by this provision.
- F. Phillips Exeter Academy has an existing memorandum of understanding with HAVEN (attached) to provide counseling and support service to victims. Phillips Exeter Academy will promote awareness of this relationship and shall provide transportation to and from HAVEN to any student as requested.
- G. Phillips Exeter Academy shall offer all victims the option of a confidential off campus counselor.
- H. Students shall be permitted to leave campus when such an absence is solely in furtherance of an investigation by law enforcement of a crime, or for counseling support with HAVEN, in which that student is the victim. For example, a student will not be disciplined for leaving to be interviewed at the Child Advocacy Center.
- I. Phillips Exeter Academy agrees to publish this memorandum of understanding in the E Book and to post it on the Academy website, available for public access.



Lisa MacFarlane
Principal Instructor
Phillips Exeter Academy



William Shupe
Chief of Police
Exeter, NH

MEMORANDUM OF UNDERSTANDING

BETWEEN

HAVEN and PHILLIPS EXETER ACADEMY

This Memorandum of Understanding (MOU) is entered into by Phillips Exeter Academy ("PEA") and HAVEN.

The MOU formalizes the commitment of the parties to work together to provide trauma informed services to student and employee victims of sexual assault, domestic violence, dating violence and stalking. The parties share the goal of preventing sexual assault, domestic violence, dating violence, and stalking on PEA's campus, and responding appropriately to students and employees who have been victimized.

I. Description of the Partner Organizations

HAVEN is dedicated to the prevention of child sexual abuse, domestic violence, sexual assault and stalking, while supporting victims, survivors and others impacted by sexual and domestic violence. Advocates can be reached 24 hours a day, 7 days a week to provide free and confidential services.

PEA was founded in 1781 and has a student body of approximately 1086 students in grades 9-12, plus post-graduate. It was founded with the intention to link goodness with knowledge, developing the consciences and training the minds of students so that they may usefully serve society. PEA seeks to provide this high-quality education in a safe learning environment. PEA employs approximately 575 faculty and staff.

II. The Role of HAVEN

HAVEN agrees to:

- a) Appoint a qualified Coordinator of Services ("HAVEN Coordinator") to focus on making services accessible to and appropriate for students and employees referred by PEA. This will require PEA to train the HAVEN Coordinator on PEA specific policies, protocols, and resources and then for the HAVEN Coordinator to train/inform HAVEN staff and volunteers on PEA specific policies, protocols, and resources.
- b) Make 24-hour crisis hotline services available to PEA students and employees.
- c) Offer 24-hour advocacy and support at police stations, hospital emergency rooms, and the courts as requested by students and employees.

d) Provide confidential crisis intervention, advocate/counseling, information and referral, and accompaniment to medical and legal services as requested by students and employees.

e) Provide PEA with information about how to access HAVEN services.

f) Assist victim students or employees in filing a complaint or report with local law enforcement and/or campus security.

g) Meet regularly with PEA Program Coordinator or designee to discuss: trauma-informed best practices, general data trends for our catchment area, impact of trauma for sexual assault survivors and secondary survivors, additional services that are needed by students and employees, and other issues of concern that have surfaced in our collective response or prevention efforts. HAVEN is prohibited from sharing confidential communication between victims and HAVEN Advocates as defined in NH RSA 173-C. Reasonable fee will be assessed based upon HAVEN fee schedule.

h) Assist PEA with the development and provision of prevention programming and training to faculty, students and school officials. Reasonable fee will be assessed based upon HAVEN fee schedule.

i) Provide professional training and consultation to the PEA community as mutually agreed upon. Reasonable fee will be assessed based upon HAVEN fee schedule.

j) HAVEN is not an agent of PEA under the terms of this MOU.

III. The Role of PEA

PEA agrees to:

a) Identify a central point of contact to support HAVEN services (the "PEA Coordinator").

b) Provide training to PEA staff about HAVEN resources that are available to student and employee victims of sexual assault and reporting procedures for victims who wish to access HAVEN services.

c) Provide printed and online materials about reporting options for students and employees, including information about how to access the HAVEN and how to report a crime to campus or local law enforcement.

d) Inform the HAVEN and the PEA community about PEA's prohibitions on retaliation, how allegations of retaliation can be reported, and what protections are available for students or employees who experience retaliation.

e) Ensure availability of the PEA Coordinator to meet regularly with HAVEN.

f) Collaborate with HAVEN on prevention approach and activities.

g) Provide training to HAVEN staff about on-campus resources that are available to student and employee victims of sexual assault, sexual violence, and/or relationship violence; the federal and state requirements for PEA 's response to sexual assault; reporting procedures for victims who wish to file a report with campus security and/or a complaint with local law enforcement; the student code of conduct and disciplinary process; victim accommodations and the educational supports that can be provided to victims of sexual assault.

h) Compensate HAVEN for training and consultation services provided.

i) PEA is not an agent of HAVEN under this MOU.

IV. Confidentiality

PEA and HAVEN affirm the importance of providing students with options for confidential services and support. All services provided by HAVEN to students and employees of PEA will be kept confidential except in the following circumstances:

a) If the student or employee wants information shared with PEA, campus security or local law enforcement, HAVEN will obtain informed consent for release of the information. When releases of information are required, they will be written, informed, and reasonably time-limited.

b) HAVEN will comply with all mandatory state reporting laws regarding child abuse and child sexual abuse.

c) HAVEN will provide PEA aggregate data about incidents of child sexual abuse, domestic violence, sexual assault and stalking to help PEA identify patterns or systemic problems. No personally identifying information (PII) will be provided. HAVEN will consult with victims regarding what information needs to be withheld to protect their identities.

By Betsy Haley
Betsy Haley, Program Director, HAVEN

Date 2-28-17

By Holly Barcroft
Holly Barcroft, General Counsel, Phillips Exeter Academy

Date 3/1/2017

By Lisa MacFarlane
Lisa MacFarlane, Principal, Phillips Exeter Academy

Date 2-28-17