

Memorandum of Understanding Between Achievement First **SCHOOL NAME** and the
SECURITY AGENCY NAME

I. PURPOSE

1. This Memorandum of Understanding (“Memorandum,” “MOU,” or “Agreement”) is entered into between Achievement First **SCHOOL NAME** (“School”) and the **SECURITY AGENCY NAME** (“Security Agency”) (collectively, “Parties”) for the administration of a School Resource Officer Program (“Program”). This agreement is adopted pursuant to N.Y. Education Law § 2801-a(10)(2019).
2. The Parties enter into this understanding in the spirit of mutual cooperation and to strengthen their efforts to safeguard children and the school community.
3. The purpose of the Program is to ensure a safe school environment; provide a clear protocol for school officials when responding to nonemergency situations in schools; foster positive interactions between and among students, school officials, and law enforcement; empower educators to respond to conflicts in their schools; reflect a shared commitment to the philosophy of de-escalation; and support a positive educational and social-emotional climate at the School.
4. The Parties acknowledge the need to foster safe and supportive schools with a positive school climate. The Parties also acknowledge that student behavior and the vast majority of school-based discipline matters are best handled by educators and school administrators, and not by law enforcement personnel or the court system.

II. SCOPE & APPLICABILITY

1. This Agreement applies to activities of the Security Agency and the School on public school grounds and the immediate perimeter thereof; on vehicles, such as school buses; on vehicles dedicated for use by the Security Agency in its operation of the Program; at all school-sponsored events; and any time student behavior away from school property is governed by the School’s Code of Conduct.
2. This Agreement does not govern the role of members of the Security Agency, including **TITLE OF SECURITY GUARDS** (“Security Guards”), with regard to illegal behaviors engaged in by non-students.

III. DEFINITIONS

1. “Arrest” means placing a person in police custody, with or without the use of handcuffs or other mechanical restraints, N.Y. Crim. Proc. Law § 140.05 et seq. (2019).

2. “Biometric record” means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting. 34 C.F.R. § 99.3 (2012); 20 U.S.C. § 1232g (2013).
3. “Code of Conduct” means the document the Achievement First Brooklyn Board of Directors develops, adopts, enforces, and amends, where appropriate, for the maintenance of order on school property, including a school function, which shall govern the conduct of students, teachers, other school personnel, and visitors. The Code of Conduct contains the School’s behavioral and discipline policies required by New and is shared with students and parents. N.Y. EDUC. LAW § 2801 (2012).
4. “Federal Immigration Authorities” or “Federal Immigration Enforcement Agency” means any officer, employee, or person otherwise paid by or acting as an agent of the United States Immigration and Customs Enforcement (“ICE”), Homeland Security Investigations (“HIS”), Customs and Broder Protection (“CBP”), or Department of Homeland Security (“DHS”), or any division thereof, who is charged with immigration law enforcement.
5. “Gender” includes actual or perceived sex, gender identity, and gender expression including a person’s actual or perceived gender-related self-image, appearance, behavior, expression, or other gender-related characteristic, regardless of the sex assigned to that person at birth. NYC Admin. Code § 8-102 (2019).
6. “Guidance Intervention” or “Response to Intervention” generally refers to the practice of providing high-quality instruction or intervention to meet the needs of all student through the provision of differentiated instruction in core curriculum and supplemental intervention.
7. “Law Enforcement Agency” refers to any police department, sheriff’s office, or other local law enforcement entity that maintains a presence in the School and is party to this Agreement.
8. “Individualized Education Program Team” (“IEP Team”) refers to a school’s team of qualified professionals who are primarily responsible for development and review of a child’s Individualized Education Program (“IEP”). At a minimum, the IEP Team shall include the parent of the student, at least one of the student’s general education teachers, the special education teacher, the school psychologist or an individual who can interpret the instructional implications or evaluation results, a representative of the local education agency who is qualified to provide or supervise special education and knowledgeable about the general curriculum, the child, or the local education agency’s resources, and the student (when appropriate). 34 C.F.R. § 300.321 (2007).

9. A “non-criminal violation” is any offense, other than a traffic offense, in the New York Penal Law that does not allow for a term of imprisonment greater than fifteen (15) days.
10. “Parent” means a person in parental relation to a student, including the student’s parent, legal guardian, or other person legally responsible for a student under New York law. N.Y. EDUC. LAW § 2 (2005); N.Y. GEN. OBLIG. LAW § 5-1551 (2018).
11. “Police Officer” means any uniformed employee of the New York Police Department.
12. “Positive Behavioral Intervention and Supports” (“PBIS”) refers to a multi-tiered, evidence-based framework and systems of supports that create and maintain positive school climates. PBIS emphasizes the prevention of behavioral and school discipline problems by teaching, modeling, and recognizing positive, appropriate behaviors in schools.
13. “Restorative practices” refers to prevention and intervention measures for responding to misbehavior that focus on building relationships, holding students accountable, and creating a sense of community through participatory decision-making and problem solving. Restorative practices include, but are not limited to, collaborative negotiation, circle process, peer mediation, conflict resolution, and formal restorative conferencing.
14. “School official” means any Achievement First Brooklyn Board member, School employee, New York State Education Department, or the individual School.
15. “School property” means in or within any building, structure, athletic playing field, playground, parking lot, or land contained within the real property boundary line of the School’s physical building. “School property” also means in or on a school bus, whether owned and operated by the School, the local education agency, or by a carrier that the School contracts with for the transportation of its students.
16. “School Resource Officer” (“SRO”) means law enforcement officers assigned to schools including school security guards, private security guards, sheriff’s deputies, or any uniformed employee
17. “School Resource Officer Program” (“Program”) refers to all administrative, organizational, and policy components that allow for the placement of SROs or any employee of the NYPD or the Security Agency in Achievement First **SCHOOL NAME** pursuant to this Agreement.

18. "Student" refers to a person enrolled in the School.
19. "Out-of-School Suspension" refers to a student's temporary prohibition from attending school on either a short-term or a long-term basis in accordance with N.Y. EDUC. LAW § 3214 (2017). A short-term out-of-school suspension refers to a suspension of a student from school for ten (10) days or less. A long-term out-of-school suspension refers to a suspension of a student from school in excess of ten (10) days.
20. "In-School Suspension" refers to a student's temporary prohibition from attending regular class on a short-term basis in accordance with N.Y. EDUC. LAW § 3214 (2017).

IV. MANAGEMENT OF SCHOOL RESOURCE OFFICERS

1. The Principal or their designee shall be an equal participant with the Security Agency in any decision concerning assignment or removal of a Security Guard from the School.
2. The Principal or their designee has the right to request the removal or re-assignment of any Security Guard for any reasonable cause provided in writing to the Security Agency. Reasonable cause may include, but is not limited to, poor quality of work or performance, insubordination, issues related to dishonesty, attendance issues, theft or criminal behavior, sexual harassment, biased-based discrimination, and use of force against students.
3. Prior to placement in a new school, Security Guards shall meet with the school Principal and the highest-ranking Security Guard, if any, currently or previously assigned to the school to discuss their respective roles, the school culture, and any other useful information. Thereafter, the Principal or their designee shall maintain regular communication with the Security Agency and the Security Guard about Security Guard assignments and physical placement in the school building.
4. The Principal or their designee shall have the final say in determining how, where, and when Security Guards are deployed in the school building.
5. Security Guards shall be integrated into the school's educational mission. They shall participate in meetings and discussions when the Principal or their designee requests.
6. All Security Guards and school officials who work in public school buildings shall review this MOU.

7. The School shall not rely on Security Guards or member of the Security Agency to provide counseling or other functions performed by a trained mental health provider, such as a counselor, social worker, or psychologist.

V. RESPONDING TO STUDENT MISBEHAVIOR

1. School officials are responsible for fostering a positive school climate, administering the Code of Conduct, and responding to normative child and adolescent behaviors.
2. School administrators have the responsibility to ensure consistent enforcement of school rules and policies. Police officers and Security Guards shall not act as school disciplinarians, as enforcers of the School's Code of Conduct violations, nor may they act in place of school officials for classroom management, or in place of school social workers, counselors, psychologists, or psychiatrists on school property at school-sponsored events.
3. School officials shall not request the intervention of Police Officers or Security Guards when responding to the following normative child and adolescent behaviors:
 - a. Disorderly behavior;
 - b. Behaving in a rude or disruptive manner;
 - c. Making excessive noise;
 - d. Hanging out in school hallways or bathrooms;
 - e. Violating the dress code or uniform policy;
 - f. Failing or refusing to provide identification upon request;
 - g. Profane, obscene, vulgar or lewd language, gestures, or behavior;
 - h. Use of racial or other slurs;
 - i. Bullying, verbal abuse, and/or harassment;
 - j. Defying school officials, Security Guards, or Police Officers;
 - k. Cutting class, tardiness, and unexcused absence;
 - l. Leaving school without permission;
 - m. Entering or attempting to enter a school building before or after school hours¹ (not breaking and entering);
 - n. Vandalism and/or graffiti in a school building; and
 - o. Possession or use of a prohibited item under the Code of Conduct that does not violate the New York Penal Law (e.g., cell phones) and is not a weapon as defined in the Code of Conduct.
4. School administrators shall respond to the above student behaviors pursuant to the School's Code of Conduct. These behaviors shall not be treated as violations of the criminal law to be referred to Security Guards, Police Officers, or the court system.

¹ The Principal or their designee should be contacted if there is a question about a student's permission to enter.

5. The Principal or their designee shall make the final determination of how to respond to student behavior, taking the following factors into consideration:
 - a. The student's age and maturity;
 - b. The student's Individualized Education Program ("IEP"), Behavioral Intervention Plan ("BIP") and 504 Accommodation Plan, if applicable;
 - c. The student's mental, medical, and emotional needs;
 - d. The student's disciplinary record (including the nature of any prior misbehavior, the number of prior instances of misbehavior, and the disciplinary and guidance intervention measures applied for each);
 - e. The nature, severity, and scope of the behavior;
 - f. The circumstances/context in which the conduct occurred;
 - g. The frequency and duration of the behavior; and
 - h. The number of people involved in the behavior.
6. Whenever responding to alleged student misbehavior, school officials shall seek to de-escalate the situation. If de-escalation is not required, school officials shall make every reasonable effort to respond through guidance interventions, restorative practices, and other means, utilizing that least severe, appropriate disciplinary response, if any disciplinary action is warranted.
7. Appropriate disciplinary actions should always minimize disruption to student education and promote the development of a positive school climate.
8. Where a student exhibits a serious emotional, psychiatric, or potential self-harm issue that requires immediate attention, school officials should make every effort to de-escalate the situation. School officials should also make every effort to ensure the student's safety and emotional needs are met without involving police or Security Guards.

Any response by school officials, police or Security Guards must include consideration of the student's IEP, Behavior Intervention Plan (BIP), and 504 Accommodation Plan, if applicable. Students should not be restrained or be subject to physical force by Police Officers or Security Guards. In these situations, the parent should be contacted immediately. Students who are not injured or experiencing a danger condition should not be transferred to Emergency Medical Services without parental notification.

9. Under no circumstances should 911 be called or employed as a disciplinary response or disciplinary measure because of student's behavior. 911 should not be used as an alternative to de-escalation strategies, when those strategies can be safely used.

VI. INTERVENTIONS BY MEMBERS OF THE SECURITY AGENCY AND SECURITY GUARDS

1. Police Officers and Security Guards are responsible for responding to serious criminal law matters only where there is a clear and present danger of serious physical injury to a student or other member of the school community.
2. Police Officers and Security Guards shall not arrest students at school for non-school related offenses.
3. Police Officers and Security Guards shall not respond to and are not responsible for routine disciplinary matters involving students. In the event that a Security Guard witnesses a student violating school rules, the Security Guard's primary responsibility shall be to inform a relevant school official.
4. Police Officers and Security Guards shall not confiscate student belongings that are not defined as weapons in the School's Code of Conduct.
5. Although some student behavior may meet the technical definition of a crime or violation under New York Penal Law, it is inappropriate to subject students to criminal legal consequences for normative child and adolescent behaviors. The School administration will respond to these as normative child and adolescent behaviors.
6. In situations where a warrant directs that an arrest of a student be carried out at school, the execution of the warrant shall be planned in conjunction with the Principal or their designee. Police Officers, Security Guards, and school officials shall make every effort to respect students' privacy rights. Absent emergency circumstances, the warrant shall not be executed in a public location such as a classroom, hallway, or cafeteria, to minimize disruption and exposure to other students.
7. When Police Officers are executing the arrest of a student, school officials shall immediately contact the student's parent(s). Police Officers shall not transport a student to a police precinct without the express consent of the student's parent.
8. Students need to feel safe in school. Physical force should never be used against students except in those circumstances where there is a clear and present danger of serious physical injury.
9. Security Guards shall not be armed with firearms or nonlethal weapons, including tasers and pepper spray.
10. Under no circumstances shall a Police Officer or Security Guard use mechanical restraints on students for purposes of administrative convenience, punishment, or de-escalation. Mechanical restraints include but are not limited to metal, plastic, or

Commented [TD1]: Remove this line if your school's security guards are armed with firearms or nonlethal weapons.

Velcro handcuffs or shackles; restraint chairs; helmets; prone or face-down restraints; or the act of being physically locked in a room. To determine if it is appropriate to use mechanical restraints, the Police Officer or Security Guard must take into consideration the safety of the student, the Police Officer, or Security Guard, and other members of the school community; the age and physical stature of the student; the type of offense alleged and whether weapons were used; the presence of the student's parent and/or school employees; the number of students being arrested; the judgement of the Principal or their designee; and their student's demeanor.

11. For children with disabilities, the Principal or their designee, in collaboration with the student's IEP team, shall develop an agreed upon response when a child's behavior is a manifestation of their disability. Whenever they have knowledge of a student's disabilities and accommodations, Police Officers and Security Guards shall consider the student's disabilities in interactions with the student.

VII. QUESTIONING STUDENTS

1. If the parent of any student who is subject to questioning by Police Officers cannot be present, the Principal or their designee may remain with the student during the questioning, or the student may be permitted to request the presence of another staff member in the school.
2. Police Officers shall not ask school officials or Security Guards to question a student for them in an effort to circumvent the above-mentioned protections. The Principal and/or their designee shall not compel or coerce a student to submit to questioning by Police Officers.
3. Pursuant to the Family Educational Rights and Privacy Act ("FERPA"), student education records shall not be released to law enforcement absent a court order or applicable statutory exception. 20 U.S.C. § 1232g(b)(1) (2013).

VIII. SEARCHING STUDENTS

1. In order to search students and their belongings, Police Officers (1) must have probable cause to suspect that the search will reveal evidence that the student has committed or will commit a criminal offense, and (2) the scope of the search must be reasonably related to the objectives of the search and not excessively intrusive in light of the student's age and sex and nature of the infraction. The Principal and/or their designee shall be present during all searches of students.
2. Police Officers shall obtain the permission of the Principal and/or their designee prior to conducting a search of a student at the School. If such permission is granted, the Principal or their designee shall immediately notify the student's parent(s). The

Principal's and/or their designee's permission to search a student is not required when there is a clear and present danger of serious physical injury. In such cases, the Principal and/or their designee and the student's parent(s) shall be notified immediately following the search.

3. Wherever possible, when a search conducted by a school official will require physical contact with the student, the staff member conducting the search shall be of the gender and gender identity and expression preferred by the student.
4. Police Officers shall not ask school officials to search students or their belongings in an effort to circumvent these protections.
5. Police Officers may not be present for or participate in a search of a student with regard to a suspected discipline issue.
6. Strip searches of students are prohibited. A strip search is any search where a student is directed to remove or lift clothing revealing a part of the body that would normally be covered in school.

IX. STUDENT PRIVACY

1. Absent a health or safety emergency, a Principal and/or their designee shall not release information from a student's education records except pursuant to a court order or lawfully issued subpoena, on the informed written consent of the student's parent or the student if the student is eighteen (18) years of age or older, or if the requested information falls under a statutory exception to FERPA. See 34 C.F.R. §§ 99.30-99.39.
2. The School shall refuse all voluntary information sharing with law enforcement authorities, including Federal Immigration Authorities, to the fullest extent possible under the law.
3. Certain categories of information about a student or their family members are deemed sensitive and confidential, and shall not be shared with any non-school officials for any non-educational purpose absent parental consent or a valid court order. Sensitive and confidential information includes, but is not limited to:
 - a. Actual or perceived national origin;
 - b. Actual or perceived immigration or citizenship status, including a student's social security number or information contained in a student's passport, birth certification, or residency or citizenship-related documents;
 - c. Actual or perceived religion;
 - d. Actual or perceived gender, gender identity, or gender expression;
 - e. Actual or perceived sexual orientation;

- f. Records of criminal allegations, arrests, convictions, or adjudications;
- g. School discipline records;
- h. Health or medical information;
- i. Status as a recipient of public assistance; and
- j. All information included in a student's household's income tax records.

- 4. The School shall not initiate communication with any law enforcement agency, including any Federal Immigration Enforcement Agency, regarding a student's or family member's "sensitive and confidential" information described above.
- 5. The School and its Security Guards shall not enter into agreements to share student information with local law enforcement or Federal Immigration Authorities except as required by law.
- 6. If the Principal and/or their designee receives a subpoena for student records, including an ICE Administrative Subpoena, they must immediately notify Achievement First's Team Legal to determine whether to grant or refuse access to the records based on the Network's general policy against sharing student records for any purpose that is not education-related. Upon receipt of any subpoena for student records, including an ICE Administrative Subpoena, the Principal and/or their designee must immediately notify the student's parent.

X. METAL DETECTORS & SURVEILLANCE TECHNOLOGY

- 1. No school shall install metal detectors or surveillance equipment without first determining whether less intrusive means are unavailable to protect student safety.
- 2. Metal detectors and/or surveillance equipment shall not be installed at the School except at the request of the Principal and after members of the school community, including school personnel, students, parents, and any other interested parties have been given notice and an opportunity to offer their views.

XI. RECORDKEEPING, ACCOUNTABILITY & TRANSPARENCY

- 1. The Principal and/or their designee shall notify their Regional Superintendent and enter a written incident report the same day of any law enforcement activity, including immigration enforcement, involving a student. The Principal and/or their designee shall document any activity when any law enforcement agency requests access to school property, student records, or students; interviews a student on school grounds; or detains a student on school grounds.

XII. PROHIBITION AGAINST IMMIGRATION ENFORCEMENT ON SCHOOL CAMPUS OR AT SCHOOL EVENTS

1. The School has a constitutional obligation to provide a free public education to all students, including immigrant and noncitizen students. To satisfy this obligation, the School shall not enter into agreements with state or local law enforcement agencies, or any federal immigration authority, to use the School resources, including personnel, to conduct or support immigration enforcement activities.
2. Security Guards shall not: hold individuals in custody on detainers issued by federal immigration authorities, respond to notification or transfer requests from federal immigration authorities, make arrests based on civil immigration warrants, or otherwise facilitate the use of school facilities for immigration enforcement purposes.
3. Any requests by federal immigration authorities and other law enforcement for access to school property, student information, or school events shall be immediately forwarded to the School's Regional Superintendent and the General Counsel. The Regional Superintendent and General Counsel shall review the request and make a decision on whether facilitating such access will conflict with School or Network policies and compliance with the law.
4. When law enforcement officers, including federal immigration enforcement agents, request access to a school site or to interview a student for a non-school-related purpose, the Regional Superintendent and/or the General Counsel shall ask for: (1) the officer's credentials; (2) the reason for the request; and (3) a warrant signed by a federal or state judge. If officers are unable to provide such written authority and warrant, the Regional Superintendent and/or General Counsel shall deny their request for access to School property unless otherwise required by law, as determined by the General Counsel. If the law enforcement officers satisfy the above criteria, the Principal and/or their designee shall monitor the officers' investigation and ensure the officers are not given access to information, records, and areas beyond those specified in the warrant.
5. The School shall deny all requests by law enforcement officers, including federal immigration authorities, for access to a school site to interview a student regarding non-school-related matters.

XIII. IMPLEMENTATION OF MOU

1. Prior to the adoption of this MOU, Achievement First **SCHOOL NAME** and **NAME OF SECURITY AGENCY** must affirmatively seek input from stakeholders, including but not limited to, parent, students, school administrators, teachers, parent and student organizations and community members.

2. Within ninety (90) days of the signing of this MOU, the SECURITY AGENCY shall ensure that this Memorandum is reviewed by all its employees assigned to the school, including Security Guards.

XIV. DURATION OF MOU

1. This MOU shall become effective immediately upon execution by signature and remain effective for five (5) calendar years. Thereafter, all Parties must renew it annually.
2. Any amendment or cancellation of this document shall be executed in writing.

XV. SIGNATURES

[Principal Name]
Principal
Achievement First SCHOOL NAME

[Security Agency Representative]
[Representative Title]
[Security Agency Name]