

Learn Without Fear Draft Policy Proposal:

Boston Public Schools and Boston Police Department Information-Sharing Policy

Written by

Student Immigrant Movement

Unafraid Educators (Boston Teachers Union)

Collaborators

American Civil Liberties Union (Massachusetts)

Citizens for Juvenile Justice

Muslim Justice League

Supporters

Multicultural Educational, Training, and Advocacy, Inc.

Center for Law and Education

Lawyers for Civil Rights

Definitions

Exigent Circumstances means the police commissioner or the police commissioner's designee's good faith and reasonable belief that an emergency involving danger of death, physical injury, or significant property damage or loss, similar to those that would render impracticable to obtain a warrant, requires the use of the Surveillance Technology or the Surveillance Data it provides. The use of Surveillance Technology in Exigent Circumstances shall not infringe upon an individual's right to peacefully protest or exercise other lawful and protected constitutional rights.

BPS means the Boston Public Schools.

BSP officers means any officials or general employees that belong to the Boston School Police and that are licensed by the Boston Police Department as special police officers.

BPS personnel means any employee or agent of the Boston Public Schools, excluding BSP.

BPD means the City of Boston Police Department.

Student Report means a written record created by a BSP officer that pertains to student activity.

This includes but is not limited to School Safety Reports, BPD Form 1.1 Incident Reports, Field Interrogation and Observation Reports, Intelligence Reports, and Face Sheets. These are typically not educational records and are thus not protected under FERPA.

Serious body harm means bodily injury that results in permanent disfigurement, loss or impairment of a bodily function, limb or organ, or substantial risk of death.

Draft Policy

1. Creation of Student Reports
 - a. BSP officers may create a Student Report only when:
 - i. Serious bodily harm to an individual has occurred as a result of willful conduct by a student;
 - ii. A true and credible threat to the safety of the school arises that would amount to criminal conduct;
 - iii. A student is in possession of firearms; or
 - iv. A student unlawfully possesses or uses controlled substances, provided those substances are not marijuana, nicotine, or alcohol.
 - b. BSP officers may not create a Student Report relating to matters that are not described above.
 - c. Student reports shall not contain information pertaining to:
 - i. Immigration status
 - ii. Citizenship
 - iii. Neighborhood of residence
 - iv. Religion
 - v. National origin
 - vi. Ethnicity
 - vii. Students' native or spoken language
 - viii. Suspected gang affiliation
 - ix. Participation in school activities, extracurricular activities outside of school, sports teams, or school clubs or organizations
 - x. Degrees, Honors, or Awards
 - xi. Post-high school plans
 - d. Principals and Headmasters of schools where Student Reports are written must receive copies of all Student Reports written under this section immediately upon writing.
 - e. Within 24 hours of the writing of a Student Report under this section, the Principal or Headmaster of the school where the Student Report was written must provide any student named in the Student Report and their family a copy of the Student Report.

2. Transmitting information to the BPD and other entities outside the Boston Public Schools
 - a. BSP officers may transmit Student Reports written under section 1.a to the BPD.
 - b. BSP officers shall not transmit to BPD any information about students through any official or unofficial channels, including but not limited to text, phone, email, database, and in-person communication, except in Exigent Circumstances and through Student Reports as authorized in section 1.a.
 - c. BPS personnel and BSP officers may not send information relating to Boston Public Schools students to the Boston Regional Intelligence Center (BRIC) under any circumstances.
 - d. Before a Student Report, or any other information relating to a student, is transmitted to the BPD or any other entity outside of the Boston Public Schools, the following must take place, absent Exigent Circumstances:
 - i. Any student named in a Student Report or other record, and their parent or guardian, must be notified and receive a copy of any written report and an explanation of the incident prompting the communication to BPD. All written materials must be provided in both English and the language spoken by the family, if applicable.
 - ii. The Boston Public Schools must schedule a meeting with the student and the student's parent or guardian as soon as practicable, and an interpreter/translator of the family's choosing must be present for any party that requires one. The interpreter/translator cannot be the student or other individual who is participating in the meeting in another capacity. If the family does not have a preferred translator, BPS must provide a qualified translator.
 - iii. The student and family may have an attorney and/or advocate present at the meeting. Before the meeting, BPS must provide the family with a list of available legal services vetted by the Mayor's Office of Immigrant Advancement.
 - iv. The Principal/Headmaster of the school where the incident took place, the Superintendent, and the Legal Advisor for the School Department must review the Student Report and the Legal Advisor for BPS must verify that at least one of the criteria in section 1.a is present. If the Legal Advisor finds that the incident did not meet the criteria in section 1.a, they must place a note in the record attesting to this fact, and the Student Report may not be transmitted to the BPD or any entity outside of BPS.
 - e. Students and families may amend a student's record by placing a note with information relating to any Student Report in which the student is named in the student's file.

- f. BPS personnel may not transmit to the BPD any student information, including but not limited to a Student Report, unless in response to a judicial warrant issued upon a finding of probable cause, as required under MGL c. 269, sec. 10(j) and MGL c. 71, sec. 37L, or as otherwise required by state or federal law. Nothing in this policy shall limit the ability of Boston Public Schools to release information as required by state or federal laws and regulations, or when the information directly pertains to exigent circumstances.
3. Transparency and Communication
 - a. Students, families, school administrators, teachers, and counselors must be made aware of this policy by including a copy of the policy in the Guide to Boston Public Schools.
 4. Community Information-Sharing Oversight Board
 - a. A community oversight board shall be created to provide oversight regarding the implementation of this policy.
 - b. The board must include at least one representative from each of the following groups: a student chosen by the Boston Student Advisory Council, a parent or guardian chosen by the Citywide Parent Council, a teacher chosen by the Boston Teachers Union, a local immigration advocate chosen by the Student Immigrant Movement, a civil rights advocate chosen by Lawyers for Civil Rights, and an immigration attorney familiar with the immigration consequences of criminal proceedings chosen by the Political Asylum/Immigration Representation Project.
 - c. The Superintendent shall report monthly to the board:
 - i. The number of Student Reports created, disaggregated by school;
 - ii. The number of Student Reports shared with any outside entity, disaggregated by school and receiving entity;
 - iii. The number of Student Reports reviewed by the Legal Advisor for the School Department that did not meet the criteria specified in section 1.a, disaggregated by school, and including the date of each incident, a description of each incident, the race, gender, age, and grade level of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entity.
 - iv. The number of Student Reports written under section 1.a, disaggregated by school, including the date of the incident, a description of the incident including the justification for the creation of the report per section 1.a, the type of report, the race, gender, age and grade of each student who is named in the report, the location of the incident, and whether the report was transmitted to BPD or to any other outside entities.

- v. The board will review the information provided under section 4.c and may request that BSP or District personnel respond to questions, either in writing or at a public meeting, relating to the information provided.
- vi. The board shall review the information for patterns and compliance with this policy. It shall issue findings and report such findings to the City Council and School Committee on a quarterly basis.

5. Accountability and Training

- a. All BSP officers and school administrators must receive training on this policy, and the training will be designed in collaboration with the Student Immigrant Movement and Boston Teachers Union's Unafraid Educators. The training will also be provided by the Central Office and not by individual schools. Training materials will be made publicly available.
- b. All BSP officers and BPS personnel, including school administrators, will sign an acknowledgment of responsibility for safeguarding student information under this policy, FERPA, and state student records law.
- c. All new BSP officers will receive training on the requirements of this policy as part of their orientation.
- d. All BSP officers must be trained every three years or at the discretion of the community oversight board.
- e. Any transfer of information about students in violation of this policy shall result in appropriate disciplinary action, up to and including dismissal, in accordance with the rules of collective bargaining.
- f. Should any BSP officer be found to have violated this policy, the Superintendent will instruct the Chief of Safety Services to suspend all authorization of BSP report submissions to BPD pending a full investigation of such violation.