

MEMORANDUM OF UNDERSTANDING

BETWEEN THE SCHOOL BOARD OF THE EDMONDS SCHOOL DISTRICT AND THE
CITY OF EDMONDS POLICE DEPARTMENT
REGARDING ACCESS TO SCHOOL SECURITY CAMERAS

WHEREAS the School Board of the Edmonds School District recognizes the importance of ensuring the safety and security of students and faculty at its schools; and

WHEREAS the Parkland Commission found that police should have direct access to schools' live feed video surveillance; and

WHEREAS, the Edmonds Police Department believes that direct access to video surveillance will improve its situational awareness and tactical response to an emergency within the School District; and

WHEREAS, both the School Board of the Edmonds School District and the Edmonds Police Department recognize the need to establish a protocol for appropriate access to school surveillance;

NOW THEREFORE BE IT RESOLVED THAT, the School Board of the Edmonds School District ("School Board") and the Edmonds Police Department ("EPD" or "Agency"), (collectively the "Parties"), agree to the following:

I. PURPOSE

Pursuant to the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Sec. 1232(g); 34 CFR Part 99), and to the extent the Washington State Public Records Act, RCW Chapter 42.56, applies to this agreement, the Washington Supreme Court and the Court of Appeals have found that surveillance footage of students is a public record that is not exempt from disclosure under the Act (*see Lindeman v. Kelso School District No. 458*, 162 Wn.2d 196 (2007) and *Does v. King County*, 192 Wn. App. 10 (2015 Div. 1)). Accordingly, the School Board desires to enter into an agreement that will provide the EPD with immediate access to live school surveillance video when necessary to further those purposes.

II. PROTOCOL

a. Access to Surveillance Video

The Parties acknowledge and agree that school surveillance video is generally a confidential record that is not to be disclosed except in accordance with applicable law. The Parties recognize that they are permitted to share otherwise confidential records with each other for the limited purposes of ensuring student access to appropriate services and for the safety of students, faculty, and others. Any and all access by the EPD to the School Board's surveillance video system (the "System") shall be in furtherance of these purposes.

Access to the System requires a unique account ("Agency Account"), which shall be assigned to an EPD Agency Representative. Login information for the Agency Account may be shared with other EPD personnel at the discretion of the Agency Representative. Any person who is permitted access to the Agency Account shall be subject to the provisions of this Agreement and the protocols and procedures set forth herein.

b. School Board Duties

The School Board shall provide the EPD Agency Representative with an Agency Account via surveillance software that shall be determined by the School Board in consultation with the EPD. The School Board shall maintain this account to ensure the EPD has access. The School Board shall communicate, collaborate, and coordinate its efforts with the EPD to ensure the safety of its schools.

c. EPD Duties

Authorized Access: As set forth above, any access to the System must be in furtherance of ensuring safety and emergency response of police personnel. Any use of the System for other purposes without the express written authorization of the School Board is specifically prohibited. All EPD personnel who are given access to the Agency Account shall be instructed on the purposes for which access is authorized.

Record of Access: The EPD shall maintain a record (the "Record") which indicates the name of any personnel, individual, or external organization that requests and is allowed access to the Agency Account. At a minimum, the Record shall include the following: (1) Name or User ID of the person who accessed the Agency Account; (2) the date and time at which the Agency Account was accessed; (3) a brief statement indicating the purpose for which the Agency Account was accessed. The Record produced pursuant to this provision shall be provided to the School Board on a semi-annual basis or upon request by the School Board or its authorized designee. This provision shall not be construed so as to require the EPD to create the Record prior to, or in conjunction with, each

instance of access to the Agency Account, but shall require the EPD to produce a complete copy of the Record semi-annually or upon request by the School Board, as set forth above.

Maintaining Confidentiality: The EPD shall utilize various procedures and security measures to ensure that the confidentiality of school surveillance video is maintained to the greatest extent possible. All personnel who are granted access to the Agency Account must abide by the policies and procedures set forth by the EPD to maintain the confidentiality of any and all surveillance video accessed via the Agency Account. The Police Department will not distribute, share, or provide copies of any School District video to any party except as legally required by the Washington State Public Records Act (RCW Chapter 42.56), warrant or subpoena.

d. Penalties

The Parties recognize that unauthorized access to the System or disclosure of the confidential materials contained therein will cause irreparable harm to the School Board. Accordingly, the Parties agree that the School Board shall have the right to seek immediate termination of System access granted to any EPD personnel who is discovered to have accessed the Agency Account for an unauthorized purpose.

III. INDEMNITY

To the extent permitted by Washington law, the EPD agrees to indemnify, defend, and hold harmless the School Board, its officers, staff, employees and agents, against any and all claims, suits, damages, and causes of action arising out of the EPD's use of the System and Agency Account pursuant to this agreement, including but not limited to, access of the Agency Account by EPD personnel for reasons not authorized under this agreement.

IV. NOTICE

All notices required by this Agreement, unless otherwise provided herein, by either part to the other shall be in writing, delivered personally, by certified or registered mail, return receipt requested, or by Federal Express or Express mail, and shall be deemed to have been duly given when delivered personally or when deposited in the United States mail, postage prepaid, addressed as follows:

School Board of Edmonds School District

Attn: Superintendent
Edmonds School District
20420 68th Avenue W
Lynnwood, WA 98036

Edmonds Police Department

Attn: Chief of Police
Edmonds Police Department
250 Fifth Avenue N
Edmonds, WA 98020

V. COMPLIANCE WITH APPLICABLE LAWS

It is the intent of the Parties that this Agreement will comply with all applicable laws and regulations that might pertain to it. Should the validity of this agreement be challenged at any point by a relevant authority, the Parties may engage in a declaratory action to seek guidance from the Courts on this issue. The Parties shall be bound by the Court's decision in a declaratory action brought by either party pursuant to this section.

VI. SEVERABILITY

The parties recognize and agree that should any clause(s) herein be held invalid by a court of competent jurisdiction, the remaining clauses shall not be affected and shall remain in full force and effect.

VII. COUNTERPARTS

This agreement may be executed in one or more counterparts, all of which together shall constitute only one agreement.

VIII. WAIVER

A waiver by either party of a breach or failure to perform hereunder shall not constitute a waiver of any subsequent breach or failure to perform. Any waiver of any requirement provided for by this agreement does not relieve the EPD of the obligations contained in the indemnification provision of this agreement.

IX. CAPTIONS

The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this agreement.

X. ENTIRE AGREEMENT

The parties hereto agree that this is the final agreement between the parties and supersedes any and all prior agreements and/or assurances, whether oral or in writing.

XI. GOVERNING LAW AND VENUE

This agreement shall be construed in accordance with the laws of the State of Washington. Any dispute arising hereunder is subject to the laws of Washington, venue in Snohomish County, Washington. The prevailing party shall be entitled to reasonable attorney's fees and costs incurred as a result of any action or proceeding under this agreement.

Signature pages follow:

