

WISCONSIN SCHOOL SAFETY COORDINATORS ASSOCIATION
School Safety & Security Coordinator Certification

Module Nine: Emergency and Crisis Management for Schools

Topic: Memoranda of Understanding

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Memorandum of Understanding

Definition: A memorandum of understanding (MOU or MoU) is a formal agreement between two or more parties.

Companies and organizations can use MOUs to establish official partnerships.

MOUs are not legally binding but they carry a degree of seriousness and mutual respect, stronger than a gentlemen's agreement.



Memorandum of Understanding

A memorandum of understanding (MOU) is, concisely, a written agreement.

An MOU is sometimes confused with other, similar jargon, such as **letter of intent** or **memorandum of agreement**. For most legal purposes, however, all three of these terms amount to basically the same thing.



Memorandum of Understanding

No matter their length or complexity, MOUs specify mutually-accepted expectations between two or more people or organizations as they labor together toward a common objective.

Generally *they're not legally binding*, in part because neither party wants to deal with the ramifications of a binding agreement, and they don't involve the exchange of money.



Memorandum of Understanding

An MOU may state a purpose, include some required elements, and optional elements.

It is expected that no money changes hand with an MOU.

When there are fees and payments included in the partnership, a contract is required.



Memorandum of Understanding

You may wonder why two parties would go to the effort of putting together an MOU, especially considering that it's not an enforceable document.

In some cases, a party is legally required to create MOUs, such as when housing authorities negotiate with tenants.



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MOUs typically are not enforceable. However, there are exceptions and stipulations that can spell serious legal consequences for parties who break memoranda of understanding.

If the content of the MOU is exactly like a contract in language and intent, then a court is likely to call it a contract, no matter what title might appear on the front page.

This issue can arise when parties attempt to manipulate the language of an MOU to resemble a contract without the risks of actual contractual obligations



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Although MOUs aren't binding, they may include provisions that are, such as privacy or nondisclosure agreements. If either party violates such provisions, they may be held liable.

A lot of lawyers don't really like MOUs. Without standards, memoranda of understanding are often ambiguous, legally fuzzy documents that can lead to confusion.

In spite of a lack of love from lawyers, MOUs come in handy in a lot of situations, such as skirting bureaucracy and skillfully avoiding massive amounts of red tape.



Memorandum of Understanding

What are the essential elements of a MoU?

- The parties involved and the purpose for the MoU:

THIS AGREEMENT is executed by and between _____ (hereinafter referred to as "School District") and _____ (hereinafter referred to as "Provider") for the purpose of providing _____ to students (hereinafter referred to as the "Program").



Memorandum of Understanding

What are the essential elements of a MoU?

- The parties involved:

"This Memorandum of Understanding (MOU) is entered into by and between:
 (Name of District) and (Name of Cooperating Agency or Organization)



Memorandum of Understanding

What are the essential elements of a MoU?

- Purpose:

"It is the intention of the Parties to participate in the Program for the purpose of providing students (hereinafter referred to as "Students" or "Participants") with the opportunity to receive needed dental services provided by Provider and/or their community partners."



Memorandum of Understanding

What are the essential elements of a MoU?

- Roles and Responsibilities: *Clearly describe and delineate the agreed upon roles and responsibilities each organization or agency will be providing to ensure project success. The roles and responsibilities should align with project goals, objectives and target outputs. This may be time commitment, in-kind contributions or grant funds and could include but is not limited to the following: training, workspace, volunteer hours.*



Memorandum of Understanding

What are the essential elements of a MoU?

- Reporting Requirements. Describe who will be responsible for collecting, collating and submitting data as per the project target outputs and outcomes.
- Funding. Clearly describe any grant fund, the amount and category (personnel, office supplies, contracted services, etc.) that will be provided to the non lead agency(s).



Memorandum of Understanding

What are the essential elements of a MoU?

- Timeframe. Clearly state the time period that this MOU will be in effect.

"This MOU will commence on _____ and will dissolve at the end of the DPI grant funding period on _____."



Memorandum of Understanding

What are the essential elements of a MoU?

- Confidentiality. (REQUIRED)

"In order to ensure the safety of students, all parties to the memorandum of understanding agree to adhere to the confidentiality expectations as described in Board Policy 999.99"



Memorandum of Understanding

What are the essential elements of a MoU?

- Signatures: *The MOU must be signed by all partners. Signatories must be officially authorized to sign on behalf of the agency and include title and agency name.*



Memorandum of Understanding

In conducting School Security audits across the state of Wisconsin, the WSSCA Audit Teams have learned that, despite advice of, "Best Practice," many districts have neglected to establish memoranda of understanding between the districts and provider agencies.

That said, *Please note that DPI does not endorse any specific MOU.*



Memorandum of Understanding

Questions?

Comments?


