JUSTICE AND PUBLIC SAFETY CABINET
Department of Criminal Justice Training
(New Administrative Regulation)

503 KAR 7:010. On-site review of school security risk assessments and written approval of local board of education's noncompliance with KRS 158.4414(2).

RELATES TO: KRS 158.441, 158.4410, 158.4414, 158.443, 702 KAR 1:180
STATUTORY AUTHORITY: KRS 158.4410
NECESSITY, FUNCTION, AND CONFORMITY: KRS 158.4410 requires the Office of the State School Security Marshal to monitor school safety and security initiatives, to conduct on-site reviews required for completion of the school security risk assessment tool incorporated by reference in 702 KAR 1:180, and to conduct school safety and security training. KRS 158.4414(2) requires a local board of education to obtain written approval from the State School Security Marshal if sufficient funds and qualified personnel are not available for assignment of a school resource officer to every campus in the district. KRS 15A.160 authorizes the secretary of the cabinet to adopt administrative regulations to administer the cabinet, and KRS 15A.070(5) authorizes the commissioner of the Department of Criminal Justice Training to promulgate administrative regulations. This administrative regulation establishes requirements for conducting on-site reviews for completion of the school security risk assessment tool, monitoring school safety, and conducting related training. This administrative regulation also establishes the written approval process if sufficient funds and qualified personnel are not available for assignment of a school resource officer to every campus.

Section 1. Definitions.

(1) "Compliance officer" means the person assigned by the OSSSM to conduct an on-site review for risk assessment of a school campus.

(2) "Office of the State School Security Marshal" or "OSSSM" means the office established by KRS 158.4410(1) that is managed by the State School Security Marshal.

(3) "School campus" means all areas, including school buildings where instruction and school activities take place during the regular school day, and properties adjacent to such buildings, which are under the control of the school district and accessible to students during the school day, including the following:

(a) A single building located on real property owned or leased by a school district for instruction to students and school activities during the regular school day on a continuous basis, including extracurricular activities; or

(b) Two or more school buildings located on real property owned or leased by a school district to deliver instruction to students on a continuous basis or conduct extracurricular activities.

(4) "School resource officer" or "SRO" is defined by KRS 158.441(5).

(5) "School safety coordinator" or "SSC" means a district employee appointed by the local school district superintendent to serve as the school district's school safety coordinator and primary point of contact for public school safety and security functions.

(6) "School security risk assessment tool" means the assessment tool developed by the State School Security Marshal pursuant to KRS 158.4410(5), approved by the board for the Center for School Safety pursuant to KRS 158.443(9)(b), and incorporated by reference in 702 KAR 1:180.

(7) "State School Security Marshal" or "SSSM" means the person appointed by the commissioner of the Department of Criminal Justice Training pursuant to KRS 158.4410(3) who also acts as the manager of the OSSSM.

Section 2. OSSSM Review of Risk Assessment.

(1) The OSSSM shall assign a compliance officer to conduct an on-site review for risk assessment of the following:

(a) All school campuses of district operated schools on district owned or leased property under the administrative control of a principal or head teacher; and

(b) Any school campus of a district or state operated school on district owned or leased property with:

1. Career and technical education;
2. Special education program;
3. Preschool program; or
4. Alternative education program.

(2) The OSSSM shall consider the following factors in determining whether school buildings are a single school campus or multiple school campuses:

(a) Whether the buildings:

1. Are connected by a sidewalk or a parking lot;
2. Are within a reasonable walking distance of each other; or
3. Are not separated by a physical barrier, including a fence, wall, waterway, roadway, or other obstruction, that prevents ready access from one building to another; or

(b) Other indices that the buildings constitute a single school campus or multiple school campuses.

(3) The OSSSM shall maintain a list of school campuses based on subsections (1) and (2) of this section.

(4) If the school district disagrees with the designation of a school campus in its district, it may appeal the school campus decision to the OSSSM by sending a written objection with an explanation of why the buildings should be considered to be a single school campus or multiple school campuses to the OSSSM. The OSSSM:

(a) May request additional information from the school district;

(b) Shall consider the information provided by the school district;

(c) Shall make a determination concerning the school district objection; and

(d) Shall provide a written decision to the appropriate SSC.

(5) The OSSSM may conduct training on the school security risk assessment tool and the School Safety and Resiliency Act for:

(a) Superintendents;

(b) District school safety coordinators;

(c) District-level school staff;

(d) School resource officers; and

(e) Other trainings as necessary to enhance school safety.

Section 3. On-site Review of the School Security Risk Assessment Tool.

(1) An OSSSM compliance officer shall conduct an on-site review for risk assessment of a school campus.

(2) The on-site review visit shall be:

(a) Unannounced;

(b) Conducted during the school day, but not be started within two (2) hours of the end of the school day.

(3) The compliance officer shall wear an issued or OSSSM approved uniform when conducting on site reviews.

(4) The compliance officer may stop the on-site review and assessment if the school does not cooperate with the on-site review and assessment process or circumvents the process. If the on-site review and assessment is stopped, the school campus shall be deemed out of compliance.

(5) After on-site review and assessment report completion, the report shall be emailed to the appropriate district SSC. If required by the district, the SSC shall be responsible for forwarding the assessment to other district personnel.

Section 4. Closed and Locked-door Exemption for Risk Assessment.

(1) Closed and locked-door exemption applications shall be completed onsite by the assigned compliance officer and forwarded to the State School Security Marshal for review.

(2) Exemption determinations shall be made on a case-by-case basis. The basis for an exemption shall include the following:

(a) A physical mechanism does not exist to secure the room. Examples may include a gymnasium with multiple doors or an open-air classroom;

(b) The room is used as a hallway, walkway, pathway, or easement to access another part of the building and a less restrictive alternative does not exist for access;

(c) Locking the door to the room would:

1. Violate an existing fire code;

2. Infringe upon an individual student's Individual Education Plan (IEP) if that student is physically present in the room; or

3. Violate the Americans with Disabilities Act (ADA); and

4. A less restrictive alternative for access is not available;

(d) Existing renovations or physical structure issues within the building make locking the doors to the room impracticable and a less restrictive alternative does not exist; or

(e) Other reasonable grounds exist to grant an exemption.

(3) Approved closed and locked-door exemptions shall be valid for the school year in which the exemption was granted and shall expire on the 30th day of June.

(4) On or before June 1 of each year, and prior to the expiration of an approved closed and locked-door exemption on June 30th, a new application for an exemption shall be completed if an exemption remains necessary for the upcoming school year.

(5) Closed and locked-door exemption applications shall be reviewed by the State School Security Marshal for approval or disapproval.

Section 5. Noncompliant School Campus.

(1) The OSSSM shall notify an SSC of the reasons for a finding of noncompliance.

(2) After being determined to be noncompliant, a school campus shall take steps to remediate the identified problems and notify the OSSSM upon completion of the remediation.

(3) A school campus determined to be noncompliant shall be reassessed a minimum of one (1) time within the current school year using the school security risk assessment tool.

Section 6. SSSM Written Approval for Local Board of Education Noncompliance with Assignment of an SRO to Each Campus in the Local School District as Required Pursuant to KRS 158.4414(2).

(1) When sufficient funds and qualified personnel are not available to allow an SRO to be assigned to and working on-site full-time at each campus in a local school district, the local board of education shall request in writing for written approval from the SSSM permitting the district's noncompliance with KRS 158.4414(2).

(a) To receive written approval from the SSSM, the local board of education must aver, in writing, that sufficient funds and qualified personnel are not available to allow an SRO to be assigned to and working on-site full-time at each campus in the local school district.

(b) Upon receipt of a request for approval from a local board of education, the SSSM:

1. May request additional information or records from the local board of education;

2. Shall consider the local board of education's averment and other information, if any other information is requested by the SSSM;
3. Shall make a determination concerning the request; and
4. Shall provide a written approval or disapproval decision to the local board of education.

(2) The SSSM shall maintain a list of written approvals of requests granted pursuant to this section. The list shall be updated if the results of an on-site review of a risk assessment of a campus indicate an SRO has been assigned to and working on-site full-time at the campus.

Section 7. Commendation.

(1) The OSSSM may award a Certificate of Commendation to an individual, school, or district in recognition of an exemplary contribution to school safety within a school district or with statewide implications.

(2) A school or district may recommend an individual for this award by providing a written letter of recommendation to the OSSSM.

Section 8. Complaint Process.

(1) If the OSSSM receives a complaint regarding a school campus, OSSSM personnel, or other item related to the mission of the OSSSM, the process shall be as follows:

(a) An OSSSM supervisor shall review and require an investigation of the complaint; and

(b) The investigation shall be reviewed by the State School Security Marshal.

(2) After review by the State School Security Marshal:

(a) If the complaint is found to be substantiated and results in a school campus being out of compliance with KRS 158.4410(5) or KRS 158.162(3)(d), the OSSSM shall update the school's security risk assessment tool to reflect the school campus being out of compliance and notify the appropriate SSC; or

(b) If the complaint involves OSSSM personnel or other item related to the mission of the OSSSM, the State School Security Marshal shall send a written response to the complainant.

Section 9. Written submissions or notifications to the OSSSM. A written submission or notification to the State School Security Marshal or OSSSM shall be made by sending the writing to:

(1) 4449 Kit Carson Drive, Richmond, Kentucky 40475; or

(2) stateschoolmarshal@ky.gov.

NICOLAI JILEK, Commissioner

APPROVED BY AGENCY: August 30, 2022

FILED WITH LRC: September 14, 2022 at 12:15, 2022

PUBLIC HEARING AND COMMENT PERIOD: A public hearing on this administrative regulation shall be held on November 22, 2022, at 9:00 a.m. at the Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted until November 30, 2022. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person.

CONTACT PERSON: Nathan Goens, Staff Attorney, Justice and Public Safety Cabinet, 125 Holmes Street, Frankfort, Kentucky 40601, phone (502) 564-8216, fax (502) 564-6686, email Justice.RegsContact@ky.gov.