

13 KAR 1:030. Campus security, private institutions.

RELATES TO: KRS 164.948-164.9489, 164.993, 227.200, 227.230, 34 C.F.R. 668.46, 20 U.S.C. 1092(f)

STATUTORY AUTHORITY: KRS 164.020(29), (35), 164.9481(1)(a), 164.9487(2)

NECESSITY, FUNCTION, AND CONFORMITY: The Michael Minger Act, KRS 164.948 to 164.9489, requires public postsecondary education institutions and those private postsecondary education institutions licensed by the Council on Postsecondary Education to report campus crimes to employees, students and the public and to report annually to the Council on Postsecondary Education. KRS 164.9481(1)(a) requires the council to approve a form for the daily security log maintained by each institution. KRS 164.9487(2) requires the council to specify uniform reporting formats for each institution's annual report to the council, in compliance with KRS 164.9485. KRS 164.9483(1) and (2), and 227.220(3)(b), authorize the State Fire Marshal to enter in or upon the property of a postsecondary education institution licensed by the council. This administrative regulation establishes the responsibilities of private, independent postsecondary education institutions licensed by the Council on Postsecondary Education.

Section 1. Definitions.

- (1) "Annual report" means the report submitted by an institution to the council that satisfies the requirements of KRS 164.9485.
- (2) "Campus" is defined in KRS 164.948(1).
- (3) "Campus crime log" means the daily log maintained by an institution and developed by the council consistent with the provisions of KRS 164.9481(1).
- (4) "Campus security authority" is defined in KRS 164.948(2).
- (5) "Clery Act" means the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act, 20 USC 1092(f) and as implemented in 34 CFR 668.46.
- (6) "Council" means the Council on Postsecondary Education as established by KRS 164.011.
- (7) "Crime" is defined in KRS 164.948(3).
- (8) "Fire scene" means the immediate area necessary for a local fire department or the State Fire Marshal's Office to investigate an actual fire.
- (9) "Immediately" is defined in KRS 164.948(4).
- (10) "Institution" means a postsecondary education institution as defined in KRS 164.948(5).
- (11) "State Fire Marshal" means the officer described in KRS 227.220.

Section 2. Property Subject to Reporting.

- (1) An institution shall establish a list of all property the institution:
 - (a) Owns; or
 - (b) Manages or controls.
- (2) The list of property shall include the areas described in KRS 164.948(1) and in 34 CFR 668.46(a), "Campus:" (1) and (2) and "Noncampus Building or Property:" (1) and (2).
- (3) The list shall be updated as necessary but not less than annually.
- (4) An institution shall provide the property list to the council upon the council's request.

Section 3. Campus Crime Log.

- (1) An institution shall maintain a campus crime log as required by KRS 164.9481(1).
- (2) The campus crime log shall include each data element required by KRS 164.9481(1).
- (3) An institution shall develop and maintain a written policy that:
 - (a) Ensures crime log information is available to the public as soon as possible, but no later than the time frame specified in KRS 164.9481(1)(b); and

- (b) Is subject to the limitations established in KRS 164.9481(1).
- (4) The policy shall state that the institution shall not withhold information except as provided in KRS 164.9481(1).
- (5)
 - (a) An institution may archive campus crime log entries after sixty (60) days have elapsed from the date when an incident report was reported.
 - (b) An institution that elects to archive campus crime log entries shall respond, within two (2) business days, to a request for material that has been archived.

Section 4. Special Reports. An institution shall report, in writing, to the council on how it shall comply with the provisions of KRS 164.9481(2).

Section 5. Crime. The meaning of a crime listed in KRS 164.948(3) shall be consistent, to the extent possible, with the definitions and standards established in the Uniform Crime Reporting System of the federal government, and with the Kentucky Revised Statutes, where appropriate.

Section 6. State Fire Marshal and Threat of Fire.

- (1) A threat of fire includes:
 - (a) A fire alarm, except as provided in subsection (2) of this section; and
 - (b) An expression of an intention by a person to engage in destructive burning or explosion.
- (2) A threat of fire does not include an alarm triggered for the purpose of:
 - (a) Maintenance testing; or
 - (b) Fire drill.
- (3) A threat of fire or fire shall be reported immediately by the campus security authority designated pursuant to KRS 164.9483(4) to:
 - (a) The State Fire Marshal; and
 - (b) The local fire department.
- (4) An institution shall maintain a fire scene until cleared by the State Fire Marshal's Office in accordance with KRS 164.9483(4).

Section 7. Annual Report. Each institution shall file an annual report, as required by KRS 164.9485, using Form MMA1.

Section 8. Enforcement.

- (1) KRS 164.993 provides civil and criminal penalties for a violation of KRS 164.9481 and 164.9483.
- (2)
 - (a) A person, including campus personnel, who has reason to believe that any person has violated, or knowingly induced another person, directly or indirectly, to violate KRS 164.9481 or 164.9483 may register a complaint with the State Fire Marshal's Office.
 - (b) A person who has reason to believe that any person has violated KRS 164.9481 or 164.9483 may register a complaint with the county attorney in the county where the institution is located.

Section 9. Incorporation by Reference.

- (1) "MMA1, 1/2001" is incorporated by reference.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Council on Postsecondary Education, 1024 Capital Center Drive, Suite 320, Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.
(27 Ky.R. 1375; Am. 1827; 2112; eff. 2-5-2001; Am. 29 Ky.R. 748; 1237; eff. 11-12-2002.)