



CENTER FOR SAFE SCHOOLS

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275 GRANDVIEW AVENUE

SUITE 200

CAMP HILL, PA 17011

717-763-1661

FAX 717-763-2083

WWW.SAFESCHOOLS.INFO

Michelle L. Elliott
Regulatory Analyst
Independent Regulatory Review Commission
333 Market Street, 14th Floor
Harrisburg, PA 17101

Dear Ms. Elliott:

The Center for Safe Schools (Center) respectfully submits the following comments on the proposed Chapter 10 of 22 Pa Code (Education). The Center, one of 16 Statewide School Safety Centers in the nation, as recognized by the U.S. Department of Education, U.S. Office of Juvenile Justice and Delinquency Prevention and the National Crime Prevention Council, draws upon its 20 years of school safety and youth violence prevention expertise to guide the following comments.

General comment: The original proposed Chapter 10 regulations referenced the "School Code." The re-submitted version (March 2012) changed references from the "School Code" to reflect the wording "Safe Schools Act." There have been multiple Safe Schools Acts over the past two decades. The Center would recommend use of the wording "school code" to accurately reflect the entire school code and not create confusion with individual acts/amendments to the school code.

Proposed section:

§ 10.7 Response and handling of a student with a disability:

(a) A school entity shall provide to each local police department having jurisdiction over property of the school entity a copy of its procedures on behavior support services (see § 14.104 (relating to special education plans)) no later than September 30, 2012. Thereafter, a school entity shall provide to each local police department a copy of its procedures on behavior support services each time they are revised by the school entity.

Comment: Local police departments are not required to follow procedures established by school districts and have no authority to supervise or compel districts to follow the procedures. This proposed regulation may cause concern

and confusion and imply that law enforcement agencies are required to develop procedures or responses that are not mandated by statute or regulation.

(b) A school entity shall invite representatives of each local police department having jurisdiction over property of the school entity to participate in trainings in the use of positive behavior supports, de-escalation techniques and appropriate responses to student behavior that may require immediate intervention, as provided by the school entity's special education plan (*see* § 14.104 (~~relating to special education plans~~)) and the school entity's positive behavior support program (*see* § 14.133 (~~relating to positive behavior support~~)).

Comment: Local police departments are not required to follow procedures established by school districts and have no authority to supervise or compel districts to follow the procedures. Law enforcement agencies are required by *18 Pa.C.S. § 501 et seq.* and other standard operating procedures to train personnel in the use of force, custody and arrest. This proposed regulation may cause concern and confusion and imply that law enforcement agencies are required to develop procedures or responses that are not mandated by statute or regulation. Furthermore, the trainings outlined in this proposed section will result in local school districts incurring training costs to support this unfunded mandate. By requiring local law enforcement personnel to attend these trainings, school districts will incur increased costs.

Proposed Section:

§ 10.8. Emergency and nonemergency response and preparedness

(a) Each school district, in cooperation with the local emergency management agency and the Pennsylvania Emergency Management Agency, annually shall develop and implement a comprehensive disaster response and emergency preparedness plan, as required by 35 Pa.C.S. §7701(g)(relating to plans).

Comment: The Center supports this section but would recommend usage of the term "all-hazards planning" in lieu of "comprehensive disaster response and emergency preparedness plan." Pennsylvania Emergency Management Agency (PEMA) has developed an "all-hazards" school planning template, and use of the term "all-hazards" is consistent with current federal and state emergency planning terminology.

(b) A school district's comprehensive disaster response and emergency preparedness plan shall be consistent with the guidelines developed by the Pennsylvania Emergency Management Agency and any other applicable state requirements, as required by 35 Pa.C.S. § 7701(g).

Comment: While PEMA has created a toolkit for schools relative to all-hazards planning, the templates contained in the toolkit are not guidelines. The Center recommends that this section be revised as follows:

A school district's ~~comprehensive disaster response and emergency preparedness~~
all-hazards plan shall be consistent with the guidelines developed by the

Pennsylvania Emergency Management Agency and other conform to applicable state requirements, as required by 35 Pa.C.S. § 7701(g).

(c) In developing a comprehensive disaster response and emergency preparedness plan, a school district shall consider the framework presented in the National Incident Management System.

Comment: The Center agrees with this section and recommends that the State Board of Education consider issuance of a mandate that all educators applying for administrative certificates be required to successfully complete IS-100 and IS-700 level trainings.

(d) A school district shall provide the emergency management agency of every county of which the school district is a part a copy of the district's comprehensive disaster response and emergency preparedness plan, as required by 35 Pa.C.S. § 7701(g).

Comment: The Center agrees with this concept and recommends the wording reflect:

A school district shall provide the emergency management agency of the county/counties in which a school building is located of which the school district is a part with a copy of the district's comprehensive disaster response and emergency preparedness all-hazards plan, as required by 35 Pa.C.S. § 7701(g).

This wording change would require school districts to provide plans to county emergency management agencies (EMAs) in which its buildings are located.

(e) A school district shall provide to each local police department and each local fire department having jurisdiction over geographic territory of which the school district is a part a copy of the district's comprehensive disaster and response emergency preparedness plan.

Comments:

- The Center supports the provision to submit the response section of all-hazards plans to local police departments.
- While the police need response plans, they do not necessarily need the prevention/mitigation, preparedness and recovery sections of the all-hazards plan.
- The Center recognizes that some local fire departments (particularly volunteer fire departments) do not maintain adequate operational security (OP SEC) and therefore jeopardize the security of school district all-hazards plans. While pre-incident collaboration and cooperation is a key to the success of comprehensive all-hazards planning, this mandate may subject many school districts to unreasonable security breaches.
- The Center recommends that information be provided to the county EMA where each school is located, but not be provided to each local fire department.

(f) In an emergency, a school district shall follow the procedures outlined in its comprehensive disaster response and emergency preparedness plan, adopted pursuant to 35 Pa.C.S. § 7701(g).

Comment: The Center agrees with the concept of this section. However, the Center is concerned that use of the words “shall” and “procedures” may expose school districts to increased liability to civil law suits.

(g) School entities shall furnish to their Incident Command Post the following information for the purpose of to local police departments and local fire departments annually, no later than September 30, to assisting local police and fire departments in responding to an emergency:

- (1) Blueprints or floor plans of the school buildings.
- (2) Aerial photo, map or layout of the school campus, adjacent properties and surrounding streets or roads.
- (3) Locations of predetermined or prospective command posts.
- (4) Current teacher/employee roster.
- (5) Current student roster.
- (6) ~~Current school~~ Most recent yearbook.
- (7) School fire-alarm shutoff location and procedures (as approved by the State Board of Education, November 16, 2011).
- (8) School sprinkler system shutoff location and procedures.
- (9) Gas/utility line layouts and shutoff valve locations.
- (10) Cable/satellite television shutoff location and procedures.
- (11) Other information the school entity deems pertinent to assist local police departments in responding to an emergency.

Comments:

- The Center agrees with the intent of this section to improve pre-incident collaboration and cooperation. The use of laws or regulations to force collaboration, while well-intended, is often counter-productive and results in trying to fit all schools and response organization into one size or mould.
- The term “Incident Command Post” utilized in Section 10.8(g) in the proposed Model MOU has obviously been inserted into this section by persons unfamiliar with the Incident Command System. An Incident Command Post is a temporary location established to maintain command, control and coordination activities at specific incidents. It is not a long-term or fixed location. The Federal Emergency Management Agency (FEMA) defines the Incident Command Post as:
 - **Incident Command Post (ICP):** The field location where the primary functions are performed. (See <http://www.fema.gov/emergency/nims/Glossary.shtm#I>).
 - **The Incident Command Post (ICP):** It is the physical field location that administers the on-scene incident command and the other major incident management functions are performed. (reference IS-100.b, August 2010, SM page 5).
- Whereas an emergency operations center is defined as:
 - **Emergency Operations Center (EOC):** The physical location at which the coordination of information and resources to support incident management (on-scene operations) activities normally takes place. An EOC may be a temporary

facility or may be located in a more central or permanently established facility, perhaps at a higher level of organization within a jurisdiction. EOCs may be organized by major functional disciplines (e.g., fire, law enforcement, medical services), by jurisdiction (e.g., Federal, State, regional, tribal, city, county), or by some combination thereof. (See also <http://www.fema.gov/emergency/nims/Glossary.shtm#I> and IS-100.b, August 2010, SM page 3).

- The Center recommends that the documents listed in proposed section 10.8 (g) be available in the school district administration office or school district EOC, should an incident occur within the district. These locations are both fixed sites, versus the temporary Incident Command Post as currently proposed.
- The Center recommends the following wording:

School entities shall have the following documents pre-staged and ready to take to the Incident Command Post in the event of an emergency:

- (1) Blueprints or floor plans of the school buildings.
- (2) Aerial photo, map or layout of the school campus, adjacent properties and surrounding streets or roads.
- (3) Locations of predetermined or prospective command posts.
- (4) Current teacher/employee roster.
- (5) Current student roster.
- (6) ~~Current school~~ Most recent yearbook.
- (7) School fire-alarm shutoff location and procedures (as approved by the State Board of Education, November 16, 2011).
- (8) School sprinkler system shutoff location and procedures.
- (9) Gas/utility line layouts and shutoff valve locations.
- (10) Cable/satellite television shutoff location and procedures.
- (11) Other information the school entity deems pertinent to assist local police departments in responding to an emergency.

The Center further suggests wording be inserted in the regulation to promote, but not force, the sharing of these documents with county emergency management agencies. In addition, it is recommended that schools provide revised/updated documents on an annual basis or as situations change.

The Center would further indicate that yearbooks are costly and often outdated until printed. Electronic photos are cost effective, easier to store and searchable. The Center recommends that schools provide electronic photos in lieu of yearbooks. Schools often receive a CD of the photos within a few weeks of the photos being taken. This information is often several months more current than yearbooks.

General Comment: The Center proposes that to further the implementation and use of the NIMS (National Incident Management System) and ICS (Incident Command System) in Pennsylvania Schools and increase collaboration between responder organizations and schools that Chapter 10 include the following additional section:

10.10 Effective on July 1, 2013, all applicants for an administrative, supervisory or director professional educator certificate and superintendent letters of eligibility must show proof of successful completion of the following FEMA courses (or a subsequent or replacement FEMA course), or an equivalent course as approved by the Pennsylvania Fire Academy:

- IS-100.Sc.a Introduction to the Incident Command System for Schools;
- IS-200 ICS for Single Resources;
- IS-700.a National Incident Management Systems (NIMS); and
- IS-800.b National Response Framework, An Introduction.

Fiscal Note: These courses are all available as free online learning modules through the FEMA web site.

Respectfully submitted,



Donald W. Smith, Jr.
Emergency Response and Crisis
Management Coordinator