

Rule Summary and Fiscal Analysis

Part A - General Questions

Rule Number: 4501:5-1-01

Rule Type: Amendment

Rule Title/Tagline: Requirements for the emergency management plan and test.

Agency Name: Department of Public Safety

Division: Homeland Security

Address: 1970 West Broad Street PO Box 182081 Columbus OH 43218-2081

Contact: Joseph Kirk **Phone:** 614-466-5605

Email: jakirk@dps.ohio.gov

I. Rule Summary

1. **Is this a five year rule review? Yes**
 - A. **What is the rule's five year review date? 4/19/2022**
2. **Is this rule the result of recent legislation? Yes**
 - A. **If so, what is the bill number, General Assembly and Sponsor? HB 123 - 133 - Holmes, Manning**
3. **What statute is this rule being promulgated under? 119.03**
4. **What statute(s) grant rule writing authority? 5502.262**
5. **What statute(s) does the rule implement or amplify? 5502.262, 5502.263, 3313.669**
6. **What are the reasons for proposing the rule?**

The rule was transferred from the Department of Education to the Department of Public Safety in House Bill 123 of the 133rd General assembly. This rule is being filed according to Section 106.03 ORC periodic rule review.

7. **Summarize the rule's content, and if this is an amended rule, also summarize the rule's changes.**

The rule deals with schools emergency management plans and tests as required by 5502.262 ORC.

8. **Does the rule incorporate material by reference? No**
9. **If the rule incorporates material by reference and the agency claims the material is exempt pursuant to R.C. 121.75, please explain the basis for the exemption and how an individual can find the referenced material.**

Not Applicable

10. **If revising or re-filing the rule, please indicate the changes made in the revised or re-filed version of the rule.**

Not Applicable

II. Fiscal Analysis

11. **Please estimate the increase / decrease in the agency's revenues or expenditures in the current biennium due to this rule.**

This will increase expenditures.

350,000

The transfer of the rule from the Ohio Department of Education to Public Safety increased expenditures because a new data collection system had to be constructed and it will require maintenance. This incurred a one time cost of \$350,000 and a regular maintenance amount that is undetermined due to issues that arise or new statutory requirements to add to the system. The rule itself does not lead to increased expenditures as Public Safety already reviewed these plans for compliance prior to it being transferred.

12. **What are the estimated costs of compliance for all persons and/or organizations directly affected by the rule?**

The only cost associated will be staff time at schools. There is no cost to the program itself. Forms, data collection worksheets and threat assessment is offered free to school from OHS.

13. **Does the rule increase local government costs? (If yes, you must complete an RSFA Part B). Yes**

14. Does the rule regulate environmental protection? (If yes, you must complete an RSFA Part C). No
15. If the rule imposes a regulation fee, explain how the fee directly relates to your agency's cost in regulating the individual or business.

Not applicable.

III. Common Sense Initiative (CSI) Questions

16. Was this rule filed with the Common Sense Initiative Office? Yes
17. Does this rule have an adverse impact on business? Yes
 - A. Does this rule require a license, permit, or any other prior authorization to engage in or operate a line of business? No
 - B. Does this rule impose a criminal penalty, a civil penalty, or another sanction, or create a cause of action, for failure to comply with its terms? Yes

Section 3319.31 (B)(4) states that a school administrator may be disciplined by the Ohio Department of Education for failure to meet Section 5502.262 of the Revised Code. However, the Department of public safety would work with administrators to correct or paperwork violations before any disciplinary proceedings.

- C. Does this rule require specific expenditures or the report of information as a condition of compliance? Yes

Schools must submit their emergency management plan at least once every three years for evaluation by the Department of Public Safety. Schools must report on their emergency management test every year.

- D. Is it likely that the rule will directly reduce the revenue or increase the expenses of the lines of business of which it will apply or applies? No

IV. Regulatory Restrictions (This section only applies to agencies indicated in R.C. 121.95 (A))

18. Are you adding a new or removing an existing regulatory restriction as defined in R.C. 121.95? Yes

A. How many new regulatory restrictions do you propose adding to this rule? 1

Paragraph (B)(1)(g) - "(g)... shall be notified...."

B. How many existing regulatory restrictions do you propose removing from this rule? 6

Paragraph (B), last sentence - "...plan shall consist"

Paragraph (B)(1)(a), second sentence - "The plan shall....."

Old Paragraph (B), first sentence - "...administrator shall inform..."

Old Paragraph (B) last sentence - "... shall be notified...."

Paragraph (E)(2)(a) - "...actual emergency shall consist..."

Paragraph (E)(3) - second sentence - ... student inclusion shall be..."

C. If you are not removing existing regulatory restrictions from this rule, please list the rule number(s) from which you are removing restrictions.

Rule Summary and Fiscal Analysis

Part B - Local Governments Questions

1. Does the rule increase costs for:

A. Public School Districts	Yes
B. County Government	No
C. Township Government	No
D. City and Village Governments	No

2. Please estimate the total cost, in dollars, of compliance with the rule for the affected local government(s). If you cannot give a dollar cost, explain how the local government is financially impacted.

The cost of compliance can range depending on the school's ability to meet the statutory demands in house or if they need to hire someone to assist. The Department provides templates for the schools to minimize financial impact on schools; however, a school may choose to hire a contractor to help them meet this requirement; that would be an unknown cost and contract specific.

3. Is this rule the result of a federal government requirement? No

- A. If yes, does this rule do more than the federal government requires? *Not Applicable***
- B. If yes, what are the costs, in dollars, to the local government for the regulation that exceeds the federal government requirement?**

Not Applicable

4. Please provide an estimated cost of compliance for the proposed rule if it has an impact on the following:

A. Personnel Costs

The only cost associated will be staff time at schools.

B. New Equipment or Other Capital Costs

Not applicable

C. Operating Costs

Not applicable.

D. Any Indirect Central Service Costs

There is no cost to the program itself. Forms, data collection worksheets and threat assessment is offered free to school from OHS

E. Other Costs

Not applicable.

5. Please explain how the local government(s) will be able to pay for the increased costs associated with the rule.

Not applicable.

6. What will be the impact on economic development, if any, as the result of this rule?

Not applicable.

4501:5-1-01

Requirements for the emergency management plan and test.

The purpose of this rule is to define the requirements, content, and format of emergency management plan and the emergency management test as required by section 3313.5365502.262 of the Revised Code.

(A) Definitions.

- (1) "Hazard Identification and Risk Analysis" means the process to identify hazards and assess the vulnerability associated with each.
- (2) "Full-Scale Exercise" means exercises that are typically the most complex and resource-intensive type of exercise. They involve multiple agencies, organizations, and jurisdictions and validate many facets of preparedness. Full scale exercises often include many players operating under cooperative systems such as the "Incident Command System" or "Unified Command". Individual school buildings can participate in a district-wide full-scale exercise in order to complete a full-scale exercise but they must submit their own after-action report.
- (3) "Incident Command System" (ICS) is a standardized on-scene emergency management construct specifically designed to provide an integrated organizational structure that reflects the complexity and demands of single or multiple incidents, without being hindered by jurisdictional boundaries. The Incident Command System is the combination of facilities, equipment, personnel, procedures, and communications operating within a common organizational structure, designed to aid in the management of resources during incidents. ICS is used for all kinds of emergencies and is applicable to small as well as large and complex incidents. ICS is used by various jurisdictions and functional agencies, both public and private, to organize field-level incident management operations.
- (4) "Unified Command" is used in incidents involving multiple jurisdictions, a single jurisdiction with multi agency involvement, or multiple jurisdictions with multi agency involvement. Unified command allows agencies with different legal, geographic, and functional authorities and responsibilities to work together effectively without affecting individual agency authority, responsibility, or accountability.
- (5) "Functional Content Area" are the procedures and protocols used to respond to a variety of hazards that can be found in the emergency operations plan.
- (6) "Functional Exercise" are those exercises designed to validate and evaluate capabilities, multiple functions and/or sub-functions, or interdependent groups

of functions. Functional exercises are typically focused on exercising plans, policies, procedures, and staff members involved in management, direction, command, and control functions. In functional exercises, events are projected through an exercise scenario with event updates that drive activity at the management level. A functional exercise is conducted in a realistic, real-time environment; however, movement of personnel and equipment is usually simulated.

- (7) Tabletop Exercise" means an exercise that is typically held in an informal setting intended to generate discussion of various issues regarding a hypothetical, simulated emergency. Tabletop exercises can be used to enhance general awareness, validate plans and procedures, rehearse concepts, and/or assess the types of systems needed to guide the prevention of, protection from, mitigation of, response to, and recovery from a defined incident. Generally, tabletop exercises are aimed at facilitating conceptual understanding, identifying strengths and areas for improvement, and/or achieving changes in attitudes. Tabletop exercises may be conducted virtually.
- (8) "School safety and security contact" means the individual responsible for school based concerns related to safety, security and emergency management.
- (9) "Mental health provider" means a state licensed school counselor, school psychologist, school social worker and community based mental health provider.
- (10) "Trauma" means an event, series of events, or set of circumstances that is experienced by an individual as physically or emotionally harmful or life threatening and that has lasting adverse effects on the individual's functioning and mental, physical, social, emotional, and/or spiritual well-being.
- (11) "Trauma Informed Care" means infusing and sustaining trauma awareness, knowledge, skills and appropriate response into the organization's culture, practices, and policies.
- (12) "Community law enforcement and safety officials" means law enforcement, fire, emergency medical personnel, mental health providers, local public health departments, school safety and security contacts, and any local divisions having county wide emergency management.

~~(A)~~(B) The emergency management plan and information required pursuant to division (B)(2) of section ~~3313.536~~5502.262 of the Revised Code shall be submitted on standardized forms developed and made available by the department of

~~education~~ public safety. Each comprehensive emergency ~~management~~ management plan ~~shall consist~~ consists of ~~four~~ six parts, including:

- (1) The emergency operations plan shall consist of a single document to address all-hazards that may negatively impact the school; including but not limited to active shooter, hostage, bomb threat, act of terrorism, infectious diseases or pandemic, severe weather, bullying, threats of violence or threats to life, and any other natural, technological, or human-caused/manmade events that the administrator knew or should have reasonably known about that compromise the health or safety of students, employees, administrators, or property. A hazard identification and risk analysis shall be included.
 - (a) The plan shall be an all-hazards emergency operations plan organized around five mission areas: prevention, protection, mitigation, response, and recovery. The plan ~~shall~~ should be ~~compliant~~ consistent with the "National Incident Management System" (NIMS) principles pursuant to division (C) of section 5502.28 of the Revised Code;
 - (b) The plan shall incorporate the access and functional needs of the students, teachers, and staff;
 - (c) The plan shall incorporate education for students, staff, and administrators to avoid, deter, or stop an imminent crime or safety issue, threatened or actual;
 - (d) The plan may include use of temporary door locking devices, when approved by the building official and noted on the certificate of occupancy only in school buildings where the requirements of section 1008.1.9.11 of the NIMS are met and as outlined in rule 4101:1-10-01 of the Administrative Code;
 - (e) The plan shall be updated and revised at least every three years from the previous date of compliance to reflect lessons learned and best practices to continually improve the plan. The areas of improvement identified in the emergency management test and actual emergencies at the school buildings will be a source for lessons learned; ~~and~~
 - (f) The plan shall include procedures for notifying law enforcement, fire, EMS, emergency management, mental health, public health officials, and other outside experts who could assist in responding to and recovering from an emergency.

(g) In addition to the notification requirements of division (B)(3) section 5502.262 of the Revised Code, any student and their parent or legal guardian enrolled in the school after the annual notification, shall be notified upon enrollment.

(h) Section 5502.263 requires a threat assessment plan that may be used in a building's emergency management plan developed under section 5502.262 of the Revised Code.

(2) A floor plan that is unique to each floor of the building as outlined in rule 1301:7-7-04 of the Administrative Code;

(3) A site-plan that includes all building property and surrounding property; ~~and~~

(4) An emergency contact information sheet;-

(5) Stakeholder signatures as defined in paragraph (C) of this rule; and

(6) Section 3313.669 of the Revised Code requires proof of completion of an approved threat assessment training program to be submitted for each team member in the building's emergency management plan.

~~(B) Prior to the opening day of each school year, the administrator shall inform each student enrolled in the school and the student's parent or legal guardian of the parental notification procedures included in the plan. Any student and their parent or legal guardian enrolled in the school after the annual notification, shall be notified upon enrollment.~~

(C) Stakeholder community engagement.

(1) In developing the emergency management plan for each building, the administrator shall involve ~~the following~~ stakeholders pursuant to division (B) (1) of section 5502.262 of the Revised Code. Stakeholders are defined as:

(a) Community law enforcement and safety officials as defined above ~~(including, but not limited to, law enforcement, fire, emergency medical personnel, and any local divisions having county-wide emergency management);~~

(b) Parents or legal guardians of students who are assigned to the building;

(c) Teachers who are assigned to the building; and

(d) Non-teaching employees who are assigned to the building.

(2) The emergency management plan shall contain the name, title (if applicable), contact information, and signature of each stakeholder as identified in paragraph (C)(1) of this rule.

(3) The signature ensures the stakeholder was offered an opportunity to provide feedback; it does not mean or require the stakeholder to approve the school's plan.

(D) Annual review of emergency management plan.

(1) Each administrator must certify that the plan, emergency contact information sheet, floor plan, and site plan are current and accurate pursuant to division (D)(1) of section 5502.262 of the Revised Code.

(2) This certification is to be done in the school safety plan portal between January 1 and July 1 of each year.

~~(D)~~ (E) Emergency management tests. ~~The~~

(1) The information on the emergency management test pursuant to division (E)(1) of section ~~3313.536~~5502.262 of the Revised Code shall be submitted on standardized forms developed and made available by the department of ~~education~~public safety.

~~(1)(2) Administrators~~ In addition to the required emergency evacuation drills outlined in rule 1301:7-7-04 of the Administrative Code, administrators shall prepare and conduct at least one ~~annual~~ emergency management test each year during the three year annual review cycle as defined in division (A)(2) of section ~~3313.536~~5502.262 of the Revised Code. Emergency management tests must meet the following requirements:

(a) Be a scheduled event at least two of the years; ~~no~~one actual emergency shall constitute a test, ~~even~~may be used during the three year plan cycle if an after action report is produced with the involvement of stakeholders pursuant to paragraph (E)(2)(e) of this rule;

(b) The type of test shall be a tabletop, functional, or full-scale, each type being used once every three years;

(c) The test shall include at least one hazard from the hazard analysis identified in the emergency operations plan, as required in paragraph ~~(A)(1)(B)(1)~~ of this rule;

(d) The test shall include at least one functional content area; and

(e) The test should include at least one representative from law enforcement, fire, EMA, EMS, ~~and/or~~ behavioral mental health provider and public health official.

~~(2)~~(3) Student participation in the emergency management test is not mandatory. Emergency management tests with student inclusion ~~shall be~~ are at the discretion of the building administrator. Administrators should consider what benefit student inclusion in the emergency management test may have on the student population in preparation for an emergency and to enhance the safety of students in the building. Schools should obtain parental consent if students are to be included in the emergency management test. Schools should also consider age appropriate participation, guidance, trauma informed best practice, and training in preparation for participation in the test.

~~(3)~~(4) Administrators shall submit an after action report to the Ohio department of ~~education~~ public safety no later than thirty days after the exercise documenting the following:

- (a) Date/time/weather/length/ of exercise;
- (b) Identify discussion/operations based exercise;
- (c) Scenario utilized;
- (d) Hazard(s) utilized; safety data sheets, as appropriate, shall be provided;
- (e) Functional content area(s) utilized; and
- (f) Identify at least three strengths and at least three improvement areas of the Plan discovered as a result of the emergency management test.

~~(E)~~ Definitions

~~(1) "Hazard Identification and Risk Analysis" - Process to identify hazards and assess the vulnerability associated with each.~~

~~(2) "Full-Scale Exercise" - FSEs are typically the most complex and resource-intensive type of exercise. They involve multiple agencies, organizations, and jurisdictions and validate many facets of preparedness. FSEs often include many players operating under cooperative systems such as the "Incident Command System or Unified Command."~~

~~(3) "Functional Content Area" - A section in the sample plan, these are procedures and protocols used to respond to a variety of hazards.~~

- (4) ~~"Functional Exercise" - Functional exercises are designed to validate and evaluate capabilities, multiple functions and/or sub-functions, or interdependent groups of functions. FEs are typically focused on exercising plans, policies, procedures, and staff members involved in management, direction, command, and control functions. In FEs, events are projected through an exercise scenario with event updates that drive activity at the management level. An FE is conducted in a realistic, real-time environment; however, movement of personnel and equipment is usually simulated.~~
- (5) ~~"Tabletop Exercise" - A TTX is typically held in an informal setting intended to generate discussion of various issues regarding a hypothetical, simulated emergency. TTXs can be used to enhance general awareness, validate plans and procedures, rehearse concepts, and/or assess the types of systems needed to guide the prevention of, protection from, mitigation of, response to, and recovery from a defined incident. Generally, TTXs are aimed at facilitating conceptual understanding, identifying strengths and areas for improvement, and/or achieving changes in attitudes.~~
- (F) ~~It is recommended that this rule be reviewed every three years, rather than the specified five.~~

Replaces: 3301-5-01

Effective:

Five Year Review (FYR) Dates: 4/19/2022

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5502.262
Rule Amplifies: 5502.262, 5502.263, 3313.669
Prior Effective Dates: 12/25/2014, 11/17/2017