



## Act 44 Updates

### School Police Officers, School Resource Officers, and School Security Guards

With the enactment of Act 44 of 2018 (Act 44) in June 2018, the Public School Code now recognizes three distinct categories of school security personnel: school police officers, school resource officers, and school security guards. However, **the School Code identifies only two types of school security personnel that may be designated to carry a firearm within the scope of their employment with the school entity: school police officers (SPOs) and school resource officers (SROs)**. While the School Code does recognize school security guards as a type of school security official, the School Code vests school security guards with six specific duties, none of which include the authority to carry a firearm. As such, school security guards who are employed by school entities—either as employees or independent contractors—are not authorized to possess a firearm within the scope of that employment.

Please note that SPOs and SROs who are authorized to carry a firearm must, prior to commencing their duties, successfully complete specific training.

Any questions about compliance with the applicable School Code provisions or required training may be directed to the Office for Safe Schools at (717) 783-6612.

### Student Assistance Program

In accordance with Act 44, the School Safety and Security Assessment Criteria included content on best practices with respect to the Student Assistant Program (SAP). A reminder: pursuant to sections 1547 and 1732-A of the PA School Code, 24 PS Sec. 15-1547, 17-1732-A, 17-1749-A, and 22 Pa Code Chapter 12, 22 Pa. Code 12.42, all school districts, charter schools and cyber charter schools (collectively, school entities) shall have access to the services of a core team trained to offer developmentally appropriate services within the student assistance program.

### Safe2Say Program and Safe Schools Annual Reporting

Act 44 amended the Pennsylvania School Code to, in part, establish the Safe2Say Program. Accordingly, the Safe2Say Program establishes an anonymous hotline for the reporting of potentially harmful, dangerous, violent or criminal activities or the threat of such activities in a school entity.

To properly respond to reports received through the Safe2Say Program and incidents involving acts of violence, possession of a weapon or possession, use or sale of controlled substances, alcohol or tobacco on school property, school entities and local law enforcement must communicate effectively. Additionally, all incidents noted above, regardless of how the school entity learns of the incident, must be reported in a school entity's Safe Schools Annual Report, and beginning with the 2019-2020 school year, school entities will report whether they learned of an incident via the Safe2Say Program.

In light of the implementation of Act 44 and the Safe2Say Program, the Office for Safe Schools offers the following guidance to school entities related to its annual reporting requirements.

Section 1301-A of the School Code defines *school property* as any public school grounds, any school-sponsored activity or any conveyance providing transportation to a school entity or school-sponsored activity. Specifically, reportable incidents may take place at any one of the following locations:

- On school property/grounds (e.g., school building, athletic fields)
- At an offsite alternative placement facility
- At a school-sponsored event (e.g., athletic competition)
- Off school grounds at an activity, function or event sponsored by the school (e.g., visit to a museum)
- On a school-provided conveyance providing transportation to and from school
- On a school-provided conveyance providing transportation to a school sponsored activity, event, or function
- Off school grounds while en route to or from school
- Internet/Online if there is a nexus to school

Additionally, section 1301-A of the School Code requires the following incidents to be reported:

- Acts of violence
- Possession of a weapon
- Possession, use or sale of controlled substances as defined in the act of April 14, 1972 (P.L.233, No.64), known as "The Controlled Substance, Drug, Device and Cosmetic Act"
- Possession, use or sale of alcohol or tobacco by any person

The incidents to be reported must include all incidents involving conduct that constitutes a criminal offense listed under section 1303-A(b)(4.1) and (4.2) of the School Code. A listing of all incidents to be reported are included in Attachment A.

Although school entities must report each incident involving an act of violence, possession of a weapon or possession, use or sale of controlled substances, alcohol or tobacco on school property, it is important to note that incidents are more than allegations. School entities may receive allegations of incidents from many sources, including calls to the school entity, reports made to the Safe2Say hotline, or reports made to local law enforcement. However, allegations alone— *i.e.*, allegations without additional findings — should not be included in a school entity's Safe Schools Annual Report.

To ensure accurate reporting in a school entity's Safe Schools Annual Report, school entities and law enforcement agencies must coordinate and effectively communicate. Prior to submitting its Safe Schools Annual Report, the chief school administrator must share the report with the law enforcement agency(s) with jurisdiction over the school entity for review. *See* 24 P.S. § 13-1303-A(b.1).

Specifically, no later than thirty days prior to the deadline for submitting the Safe Schools Annual Report to the Office for Safe Schools, the chief school administrator must submit the report to the law enforcement agency(ies) with jurisdiction over the relevant school property. At that time, the law enforcement agency shall review the Safe Schools Annual Report and compare the data regarding criminal offenses and notification of law enforcement to determine whether the Safe Schools Annual Report accurately reflects police incident data. No later than fifteen days prior to the deadline for the chief school administrator to submit the Safe Schools Annual Report to the Office for Safe Schools, the law enforcement agency shall notify the chief school administrator, in writing, whether the Safe Schools Annual Report accurately reflects police incident data. Where the law enforcement agency determines that the Safe Schools Annual Report accurately reflects police incident data, the chief of police shall sign it. Where the law enforcement agency determines that Safe Schools Annual Report does not accurately

reflect police incident data, the law enforcement agency shall indicate any discrepancies between it and police incident data.

Prior to submitting the Safe Schools Annual Report to the Office for Safe Schools, the chief school administrator and the law enforcement agency shall attempt to resolve any discrepancies between the data in the Safe Schools Annual Report and police incident data. Where a discrepancy remains unresolved, the law enforcement agency shall notify the chief school administrator and the Office for Safe Schools in writing.

If a law enforcement agency fails to review the Safe Schools Annual Report or engage in discussion to resolve any discrepancies between the data in the Safe Schools Annual Report and police incident data, the chief school administrator shall submit the Safe Schools Annual Report to the Office for Safe Schools and shall indicate as such.

School entities and local law enforcement agencies are encouraged to review any Memoranda of Understanding (MOUs) that are in place to determine whether amendments are needed to reflect communication/reporting strategies.

Finally, chief school administrators have an obligation to ensure the data reported in their school entity's Safe Schools Annual Report is accurate and timely filed. Chief school administrators who fail to submit a Safe Schools Annual Report or who intentionally falsify such a report may be subject to professional discipline and/or civil penalties. *See* 24 P.S. § 13-1303-A(3).

Any questions related to the Safe Schools Annual Report may be directed to the Office for Safe Schools at (717)783-6612.

Attachment A: Incidents involving conduct that constitutes a criminal offense under section 1303-A(b)(4.1) and (4.2) of the School Code that must be reported in a school entity's Safe Schools Annual Report.

**Section 1303-A(b)(4.1)**

A list of criminal offenses which shall, at a minimum, include:

- (i) The following offenses under 18 Pa.C.S. (relating to crimes and offenses):
  - Section 908 (relating to prohibited offensive weapons).
  - Section 912 (relating to possession of weapon on school property).
  - Chapter 25 (relating to criminal homicide).
  - Section 2702 (relating to aggravated assault).
  - Section 2709.1 (relating to stalking).
  - Section 2901 (relating to kidnapping).
  - Section 2902 (relating to unlawful restraint).
  - Section 3121 (relating to rape).
  - Section 3122.1 (relating to statutory sexual assault).
  - Section 3123 (relating to involuntary deviate sexual intercourse).
  - Section 3124.1 (relating to sexual assault).
  - Section 3124.2 (relating to institutional sexual assault).
  - Section 3125 (relating to aggravated indecent assault).
  - Section 3126 (relating to indecent assault).
  - Section 3301 (relating to arson and related offenses).
  - Section 3307 (relating to institutional vandalism) when the penalty is a felony of the third degree.
  - Section 3502 (relating to burglary).
  - Section 3503(a) and (b)(1)(v) (relating to criminal trespass).
  - Section 5501 (relating to riot).
  - Section 6110.1 (relating to possession of firearm by minor).
- (ii) The possession, use or sale of a controlled substance or drug paraphernalia as defined in "The Controlled Substance, Drug, Device and Cosmetic Act."
- (iii) Attempts, solicitation or conspiracy to commit any of the offenses listed in subclauses (i) and (ii).
- (iv) An offense for which registration is required under [42 Pa.C.S. § 9795.1](#) (relating to registration).

**Section 1303-A(b)(4.2)**

The following offenses under 18 Pa.C.S., and any attempt, solicitation or conspiracy to commit any of these offenses:

- Section 2701 (relating to simple assault).
- Section 2705 (relating to recklessly endangering another person).
- Section 2706 (relating to terroristic threats).

- Section 2709 (relating to harassment).
- Section 3127 (relating to indecent exposure).
- Section 3307 (relating to institutional vandalism) when the penalty is a misdemeanor of the second degree.
- Section 3503(b)(1)(i), (ii), (iii) and (iv), (b.1) and (b.2) (relating to criminal trespass).
- Chapter 39 (relating to theft and related offenses).
- Section 5502 (relating to failure of disorderly persons to disperse upon official order).
- Section 5503 (relating to disorderly conduct).
- Section 6305 (relating to sale of tobacco).
- Section 6306.1 (relating to use of tobacco in schools prohibited).
- Section 6308 (relating to purchase, consumption, possession or transportation of liquor or malt or brewed beverages).

More information about the incidents required to be reported, as well as other required information can be found in the Pennsylvania Information Management System, Volume 2, Appendices Y and Z.