



WEST VIRGINIA SECRETARY OF STATE

MAC WARNER

ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF PUBLIC COMMENT PERIOD

AGENCY: School Building Authority Of WV TITLE-SERIES: 164-07
RULE TYPE: Legislative Amendment to Existing Rule: Yes Repeal of existing rule: Yes
RULE NAME: School Access Safety Act Guidelines and Procedures
CITE STATUTORY AUTHORITY: 18-9D-20

COMMENTS LIMITED TO:

Written

DATE OF PUBLIC HEARING:

LOCATION OF PUBLIC HEARING:

DATE WRITTEN COMMENT PERIOD ENDS: 07/26/2018 4:00 PM

COMMENTS MAY BE MAILED OR EMAILED TO:

NAME: Tamela Brewer
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Charleston, WV 25311
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PLEASE INDICATE IF THIS FILING INCLUDES:

RELEVANT FEDERAL STATUTES OR REGULATIONS: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

INCORPORATED BY REFERENCE: No

(IF YES, PLEASE UPLOAD IN THE SUPPORTING DOCUMENTS FIELD)

PROVIDE A BRIEF SUMMARY OF THE CONTENT OF THE RULE:

School Building Authority's School Access Safety Act Guidelines and Procedures

SUMMARIZE IN A CLEAR AND CONCISE MANNER CONTENTS OF CHANGES IN THE RULE AND A STATEMENT OF CIRCUMSTANCES REQUIRING THE RULE:

Update Regulations to be compliant with WVBE Policy 6200. Remove references to Procedural Rules and SBA Forms.

Remove: Appendix K

SUMMARIZE IN A CLEAR AND CONCISE MANNER THE OVERALL ECONOMIC IMPACT OF THE PROPOSED RULE:

A. ECONOMIC IMPACT ON REVENUES OF STATE GOVERNMENT:

N/A

B. ECONOMIC IMPACT OF THE RULE ON THE STATE OR ITS RESIDENTS:

N/A

C. FISCAL NOTE DETAIL:

| Effect of Proposal | Fiscal Year | | |
|------------------------------------|--|--|--|
| | 2018 Increase/Decrease (use "-") | 2019 Increase/Decrease (use "-") | Fiscal Year (Upon Full Implementation) |
| 1. Estimated Total Cost | 0 | 0 | 0 |
| Personal Services | 0 | 0 | 0 |
| Current Expenses | 0 | 0 | 0 |
| Repairs and Alterations | 0 | 0 | 0 |
| Assets | 0 | 0 | 0 |
| Other | 0 | 0 | 0 |
| 2. Estimated Total Revenues | 0 | 0 | 0 |

D. EXPLANATION OF ABOVE ESTIMATES (INCLUDING LONG-RANGE EFFECT):

N/A

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Benjamin Ashley -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

TITLE 164
LEGISLATIVE RULE
SCHOOL BUILDING AUTHORITY OF WEST VIRGINIA

SERIES 7
SCHOOL BUILDING AUTHORITY
SCHOOL ACCESS SAFETY ACT GUIDELINES AND PROCEDURES

§164-7-1. General.

1.1. Scope. -- This legislative rule establishes the guidelines and procedures related to School Access Safety Act.

1.2. Authority. -- W. Va. Code §18-9D-20.

1.3. Filing Date. --

1.4. Effective Date. --

1.5. Sunset Provision. -- This rule shall terminate and have no further force or effect upon the expiration of (the number of) years from its effective date.

~~**§164-7-2. Incorporation by Reference.**~~

~~2.1. A copy of Appendix K, entitled School Access Safety Plan, from the School Building Authority Policies and Procedures Manual is attached and incorporated by reference into this policy. Copies may be obtained in the Office of the Secretary of State and in the office of the School Building Authority of WV.~~

§164-7-32. School Access Safety Funds.

~~32.1. Funds appropriated by the legislature to the School Access Safety Fund shall be distributed by the School Building Authority on the basis of net enrollment. These funds are for improvements of school access safety and will be distributed in accordance with School Building Authority policy and in accordance with all requirements in Appendix K of the School Building Authority Policy and Procedures Manual in WV Code §18-9F-3.~~

§164-7-43. School Access Safety Grants - Awarding of Funds.

43.1. Each county board who has an approved School Access Safety Plan and meets all the eligibility requirements of the School Access Safety Act established in W. Va. Code §18-9F-1 et al., will qualify for School Access funds.

43.2. The School Building Authority will initially review the list of projects within the plan for compliance with the School Access Safety Act and based upon the availability of funding will annually review projects from within the plan for funding consideration.

43.3. School Access Safety Grant projects must be included in the county's School Access Safety Plan (~~Appendix K~~) and must be a part of an approved comprehensive educational facilities plan (CEFP) or must be amended into the CEFP to be eligible for funding.

43.4. School Access Safety funding provided by the School Building Authority must be expended within one year. The School Building Authority may grant a six month extension of funding, if it is

determined by the Authority that extenuating circumstances prevented the county from expending the funds within the one year period. Once expired by the School Building Authority, remaining funds shall be added to the total funds available to all counties in the School Access Safety Fund and distributed in future funding cycles.

43.5. A local contribution in an amount equal to or exceeding 15% of the funding available to the county is required in order to secure School Access Safety funds. If a county board feels that it cannot fulfill the 15% local match as required, the county board of education may submit a financial hardship waiver request to the Department of Education for review and consideration. Once reviewed, the Department of Education will advise the School Building Authority of the disposition of the request prior to the award of funding.

§164-7-~~54~~. Annual On-site Inspections of School Access Projects.

~~54~~.1. Each county board that receives School Access Safety monies to fund a project from their approved School Access Safety Plan is required annually to conduct an on-site inspection and submit a review of completed School Access Safety Projects to the State Board. The inspection shall be conducted in accordance with the provision of the Department of Education's Handbook on Planning School Facilities. A copy of the completed project review must also be submitted as part of the county boards CEFP annual update.

Appendix K

School Access Safety Plan

General

~~The Governor has introduced legislation that will create a School Access Safety Fund that will be managed by the School Building Authority of West Virginia (SBA). This new legislation will provide funding for School Access Safety Improvements for schools in West Virginia. To qualify for School Access Safety Funding, each county board of education shall develop a School Access Safety Plan. The plan must be incorporated into the county CEFP. An approved School Access Safety Plan is required prior to the distribution of state funds for a project pursuant to the requirement of W. Va. Code Chapter 18-9F.~~

~~The School Access Safety Plan shall be prepared in consultation with the Countywide Council on Productive and Safe Schools. Once completed, the School Access Safety Plan shall be submitted to the School Building Authority for review and approval in order to qualify for School Access Safety funding. The plan shall be amended annually to summarize activities and to identify progress being made on projects in the plan. The School Access Safety Plan shall become part of the county comprehensive educational facilities plan and together address the safety upgrading of existing facilities and equipment, building systems, utilities and other similar items in connection with improving the overall access safety and security of the facility. Projects must directly address planning, deterrence, detection, delay and communication issues associated with the ingress and egress of pupils, school employees, parents, visitors and emergency personnel at the schools.~~

~~A School Access Safety Audit will be performed and become an integral part of the plan. The SBA approved audit format must be used. The audit must be performed prior to formulating the School Access Safety Plan to establish a basis for current conditions and formulation of the plan. In so doing, both short and long term effects of building access safety improvements will be considered.~~

~~School Access Safety funding shall be provided by the Authority on the basis of net enrollment and the efficient use of state funds for school access safety improvement projects. In order to secure School Access Safety funding, an amount equal to or exceeding 15% of the funding available to the county as a local match will be required. Should a county board feel it cannot fulfill the 15% local match requirement, the county board of education may submit a financial hardship waiver request to the Department of Education for review and consideration. Upon review and approval of the request by the State Board of Education, the Authority shall waive the local match requirement and distribute the funding upon approval of the School Access Safety project by the Authority.~~

~~Each county board will be notified on or before May 1 of each year as to the availability of School Access Safety funds. With this notification, the amount of funding and timeline for project submission will be provided. A county board of education may use up to twenty percent (20%) of the allotted Safe and Drug Free Schools (Title IV) funds as part of the 15% required local matching funds. Additional Title IV funding may be used to provide training for staff and~~

~~students as outlined in the Title IV Section of the County Five Year Strategic Plan and approved by the West Virginia Department of Education.~~

~~All projects submitted to the Authority for funding consideration must be compatible with the county Comprehensive Educational Facilities Plan goals and objectives as well as the overall goals of the Authority and the School Access Safety Plan.~~

~~Funding will NOT be distributed to any county board that does not have an approved School Access Safety Plan, does not have the 15% matching funds available and is not prepared to commence expenditure of funds during the fiscal year in which the moneys are distributed. If a hardship waiver is approved, the 15% matching funds will not be required.~~

~~Grant funds allocated to a county board and not distributed shall be available for a period of one year. To encourage county boards to proceed promptly with School Access Safety Planning and the expenditure of School Access Safety funding, the SBA will require that approved grant funds be expended within one year of the allocation. Should extenuating circumstances exist, as determined by the SBA, that would prevent the county board from expending the funding within the one year, the SBA may authorize an extension beyond the one year for a period not to exceed six months. Any funds forfeited shall be added to the total funds available for all counties in the School Access Safety Fund of the Authority for future allocation and distribution.~~

~~I. SCHOOL ACCESS SAFETY PLAN~~

~~The School Access Safety Plan shall include the recommendations and guidelines developed by the Countywide Council along with the county board's assessment of the improvements necessary to improve school access safety. The plan shall address the access safety needs of all school facilities and include a projected school access safety repair and renovation schedule. The plan must be approved by the SBA prior to the distribution of state funds. The plan shall minimally include the key elements referenced in Item I, A-J. Initially, the School Access Safety Plan must be submitted to the SBA for review and approval prior to submitting projects.~~

~~Key elements of the School Access Safety Plan include:~~

- ~~A. Goals and Objectives of the School Access Safety Plan~~
- ~~B. School Access Safety Audit~~
- ~~C. Countywide Inventory of Each Facility and Associated Reporting~~
- ~~D. Identification of a School Safety and Security Committee~~
- ~~E. Training/Drills for Staff and Students~~
- ~~F. Summary of Projects within the Plan~~
- ~~G. Finance Plan~~
- ~~H. Annual Update~~
- ~~I. Objective Evaluation of the Implementation of the School Access Safety Plan~~
- ~~J. New School Design Recommendations~~

~~The SBA will require the School Access Safety Audit be addressed first, and once completed; the audit will be required to be submitted to the SBA for review and approval prior to~~

~~proceeding with the remainder of the plan. A preliminary plan and plan outline must then be submitted to the SBA office for review and comment to insure the plan contains all key elements identified in the plan outline. This process is a prerequisite to qualifying for School Access Safety funding. The preliminary plan shall also include the name and contact information for the Countywide Council on Safe and Productive Schools and the contact information for the members of the School Safety and Security Committee. Each preliminary plan must include a uniform emergency management policy that describes the county's notification procedures to be followed in the event of an emergency at each school. It will also include an example of signage to be prominently displayed at each school giving the procedures to follow in the event of an emergency as well as contact numbers for emergency assistance. The preliminary plan will be reviewed by the SBA and comments will be provided that will direct the county to continue on the basis of the approval of the preliminary plan or to address additional SBA comments and resubmit the preliminary plan for a second review.~~

~~The School Building Authority staff will evaluate the final School Access Safety Plan and recommend approval to the members of the Authority. Once the plans are approved, the county board will submit the list of projects anticipated each funding cycle to the Authority for funding consideration. The Authority will consider whether the proposed projects are in furtherance of the School Access Safety Plan and in compliance with the guidelines established by the Authority. Consideration will also be given by the Authority as to whether the project will assure the prudent and resourceful expenditure of state funds, whether the project advances student health and safety, if the project addresses regularly scheduled preventive maintenance or updates of existing access safety equipment or building components. Each county board receiving funds pursuant to this article shall conduct an annual on-site inspection and submit an audit review to the State Board of Education. The inspection shall be conducted in accordance with the provisions of the Department of Education's Handbook on Planning School Facilities.~~

~~II. DETAILED REQUIREMENTS FOR EACH SECTION OF THE SCHOOL ACCESS SAFETY PLAN~~

~~A. Goals and Objectives of the School Access Safety Plan~~

~~Each county board of education qualifying for School Access Safety funding shall formulate goals and objectives to be accomplished by the School Access Safety plan. The goals and objectives shall reflect an objective means to resolve deficiencies cited within the School Access Safety Audit. While it may be impossible to prevent intruders in schools, it is incumbent upon school administrators to implement policies and procedures that will deter, detect, and delay unauthorized persons attempting to enter school property. Should an intruder gain access, an effective means of communicating to students, staff, the West Virginia State Police, local law enforcement officials and the community must be developed. Based on these basic assumptions, the following must be addressed within the plan:~~

~~1. Site Security~~

- ~~a. Limiting, where possible, access to school sites~~
- ~~b. Elimination of visual barriers blocking views to entrance driveways and pedestrian walkways~~

- ~~e. Signage~~
- ~~d. Structural barriers to control vehicle access to student gathering areas and building entrances~~
- ~~e. Preparation of diagrammatic school plans that illustrate site utility locations, play areas, parking, bus loading areas, building locations with entrances labeled~~
- ~~f. Sharing informational strategies with law enforcement~~
- ~~g. Implementing, where possible, a closed campus program to help protect students and staff at the school~~

~~2. Building Security~~

- ~~a. Controlling access from pre assigned entrances to the remainder of the school~~
- ~~b. Establishing a controlled point of entrance at pre assigned doors~~
- ~~c. Establishing visitor monitoring and identification process~~
- ~~d. Provide security for primary and secondary entrances~~
- ~~e. Monitoring entrances and controlling visitor entrances~~
- ~~f. Identification of all door entrances (numbering inside & outside)~~
- ~~g. Upgrading doors and hardware~~
- ~~h. Installation of alarm systems~~
- ~~i. Installation of two way communication capability~~
- ~~j. Providing diagrammatic layouts of the building that indicate all rooms with room numbers, interior and exterior doors with door numbers and the direction of the door swing, main utility shut offs and other pertinent information that would be provided to emergency management personnel should they be needed at the school. Additionally, the building common areas should be color coded to allow quick identification and all school safety signage should match the color code of the common area.~~

~~3. Communication~~

- ~~a. Establish two way communication between administrative areas and classrooms~~
- ~~b. Establish notification procedures between school and local law enforcement~~
- ~~c. Establish protocol for shelter in place and building lockdown should an intruder enter the building~~
- ~~d. Consent from the Countywide Council and advise council on productive and safe schools~~
- ~~e. Establish an evacuation plan for each facility and communicate the plan to school staff and parents.~~

~~B. School Access Safety Audit~~

- ~~1. Each county will be responsible for conducting an audit to review the current state of access safety in all schools prior to preparing the School Access Safety Plan. The School Access Safety Audit shall be performed using the SBA approved~~

~~audit format. The audit will help identify school access safety deficiencies and help the school access safety committee begin to formulate the basis of the School Access Safety Plan. Based on this information and the goals and objectives of the plan, a list of priority projects that will improve and control access to schools can be formulated.~~

~~This audit, at a minimum will:~~

- ~~a. Establish procedures for identifying problems and recommending solutions for school access safety deficiencies~~
- ~~b. Evaluate current deterrents that discourage, hinder or impede intruders from entering school buildings and grounds~~
- ~~c. Inventory existing detection and control devices and alarm systems~~
- ~~d. Evaluate current physical barriers that slow and impede unauthorized acts once detected~~
- ~~e. Identify improvements necessary to existing communication equipment~~
- ~~f. Establish a chain of command at the school and county level for effective communications with the local school, county and emergency management and law enforcement agencies.~~

~~C. Countywide Inventory of Each Facility and Associated Reporting~~

- ~~1. Each county board shall provide an estimate of probable cost to correct identified deficiencies using the School Access Safety Repair and Renovation Schedule. The individual school costs shall be amended into the current CEFP Finance Plan and recorded as a separate total dollar amount for each school. These deficiencies and costs will be reviewed annually and updated as a part of the local board annual update report provided to the SBA and the State Department of Education. The audit must also be included in the plan and performed in cooperation with local law enforcement and emergency services. Copies of the audit including building name, address and number of students and staff must be provided. A building diagram must be provided to the West Virginia State Police, local law enforcement, the Department of Military Affairs and Public Safety, Division of Homeland Security and Emergency Management, West Virginia Department of Education, Office of School Facilities and the State Fire Marshal's Office in an electronic format. Include a chain of command list of individuals at the school and county level along with phone numbers. The diagrams must include the current room layouts, location of windows, doors (with swing direction) and all utility entrances and shutoffs. All new school (and existing schools, if available) as built drawings must be secured in a central location identified in the School Access Safety Plan and must be available to emergency responders upon request. The Department of Education will verify the location and condition of the as built drawings for all new schools during their annual maintenance and custodial reviews and report their findings to the SBA office.~~
- ~~2. A countywide inventory of each school facility's interior and exterior classroom and administrative doors shall be performed. The inventory shall include:

 - ~~a. The number of controlled points of ingress to the school.~~
 - ~~b. The number and placement of exterior doors and windows.~~~~

- ~~c. The inventory and condition of all monitoring systems on exterior doors.~~
- ~~d. The location and condition of automated locking devices.~~
- ~~e. The availability of two way communication between points of ingress to the school.~~
- ~~f. The availability of alarm hardware and/or remote visitor access systems on points of ingress.~~

~~3. The following reports must be included within the plan:~~

- ~~a. A copy of the current statute of school crime committed on school grounds.~~
- ~~b. A projected school access safety repair and renovation schedule for all schools.~~
- ~~c. A prioritization process for all projects in the plan.~~
- ~~d. An itemized cost summary for recommended improvements.~~
- ~~e. A regularly scheduled preventive maintenance plan for safety and security equipment.~~

~~D. Identification of a School Safety and Security Committee~~

~~Each school shall have a School Safety Committee that will meet at least annually to review matters of school safety and make recommendations for the improvements of school access safety at the school and community level. The committee shall be made up of members of the school administration, teaching staff, school counseling staff, if available, student representation (at the secondary level, only), a Local School Improvement Council representative, a parent representative, the West Virginia State Police, local law enforcement, local emergency services and the community at large. The local School Safety Committee will prepare a baseline audit and provide an annual report based on their inspection of the facility to the superintendent regarding school safety and security on or before October 1 of each school year. The report will include a summary of the school access safety projects completed or in progress and the committee's assessment of the project's effectiveness. The committee will review the school safety needs as they relate to the existing School Access Safety Plan and make recommendations for amendments to the plan. The superintendent and staff will review the committee recommendations and recommend amendments to the plan, if required. The annual update to the plan provided to the SBA and the State Board of Education will reflect proposed new projects, completed projects and/or amended projects in the plan.~~

~~E. Training/Drills for Staff and Students~~

~~The School Access Safety Plan for each school and the School Safety Committee recommendations shall be reviewed during the local school improvement council meetings at least annually or as items for discussion occurs. Schools are encouraged to cooperate with other schools to provide staff training regarding school access safety. All teachers and administrators should be aware of the county policies regarding school safety. Students should be provided with age appropriate training regarding the procedure they should follow in the event of an emergency. Additionally, the student code of conduct established by the county should be reviewed by the school staff and the school safety committee. Student and parental responsibilities regarding the prevention of harassment, intimidation and bullying in schools should be reviewed and updated~~

~~annually. To assist with this process, county boards must comply with State Board of Education Policy 4373. The Anti-Bullying Audit (SBA 174) must be completed and included in the School Access Safety Plan. Local boards should solicit the West Virginia State Police, local law enforcement and emergency service trainers to advise teacher and students regarding their participation in the overall improvement of school access safety. Scheduled lockdown drills and communication capabilities in cooperation with local law enforcement are also encouraged to prepare students and staff for unauthorized intrusion on school property, should measures fail. Existing school safety training may be used to fulfill these requirements; however, school access training derived from input of the School Access Safety Audit must be incorporated into the training.~~

~~F. Summary of Projects within the Plan~~

~~The School Access Safety Audit will identify deficiencies at each facility with regards to school access safety. Projects proposed in the plan will be identified for each facility and the estimate of probable cost will be provided. Initially, the project costs will be listed on a separate document and placed in the School Access Safety Plan section incorporated into the countywide comprehensive educational facilities plan (CEFP). Approved expenditures include the cost of equipment, machinery, installation of utilities, necessary renovation and attention to existing facilities, design fees and associated costs for building improvement packages directly related to the project. Alterations to ingress and egress must meet all building codes including West Virginia Fire Code and Life Safety Code 101 and must be approved by the State Fire Marshal. Professional architectural and engineering services may also be required when substantial building alterations are planned to improve the school access safety. All projects identified in the plan will be prioritized using the process within the existing county CEFP. The SBA School Access Safety Repair and Renovation Schedule will be used to identify projects at each school. The project cost summary sheet must also identify all funding sources proposed for each project.~~

~~At the conclusion of the 2000-2010 planning cycle, the School Access Safety Plan projects will be incorporated into the 2010-2020 CEFP and will then be included along with other improvement projects in the plan on the School Improvement Cost Summary sheets. School Access Safety projects will be identified on the Cost Summary sheet. Each project within the plan must further the overall goals of the School Access Safety Plan and the goals and objectives of the School Building Authority.~~

~~G. Finance Plan~~

~~Initially, the finance plan for the School Access Safety Plan will be included in a separate chapter of the countywide CEFP. This information will be incorporated into the finance plan for the new ten-year CEFP beginning with the 2010-2020 planning cycle and thereafter. The SBA School Access Safety Repair and Renovation Schedule will be used to identify projects, priorities, completion dates, costs and funding sources in the finance plan. A cost summary of each implemented project along with the identified funding source(s) must be provided, including the required local matching funds. The summary of the School Access Safety Plan cost should total the individual project cost totals including all soft costs, where applicable.~~

~~H. Annual Update~~

~~Each county board shall provide the SBA an annual update of the progress on the plan. The update shall be incorporated into the county's CEEP Annual Update and shall include a list of completed School Access Safety Plan projects and a list of proposed projects. School Access Safety diagrams must also be updated annually if there are structural changes made in the school. This will require annual reviews by the county facility personnel to insure accurate building information is always available to emergency responders. Should there be new projects and the plan requires amendments, the SBA/SDE amendment procedures must be followed. Additionally, the annual update should include amendment information that relates to the new projects. The SBA School Access Repair and Renovation Schedule must be used to record the projects initially and updated annually as required.~~

~~I. Objective Evaluation of the Implementation of the School Access Safety Plan~~

~~The School Access Safety Plan shall include an objective means to be utilized in evaluating the implementation and effectiveness of the plan and each project included in the plan. The evaluation shall measure how:~~

- ~~1. Each project furthers the goals and objectives established for the plan,~~
- ~~2. Completed projects within the plan contribute to improving school access safety, and~~
- ~~3. The School Access Safety training and drills help prepare students and staff for emergency response to intruders in the school.~~

~~J. New School Design Recommendations~~

~~Where SBA funding is provided for the design and construction, all new schools shall be designed and constructed using Crime Prevention through Environmental Design (CPTED) concepts that also address School Access Safety. Additionally, when major additions and renovations occur at existing schools these same design concepts must be incorporated into the project scope of work. The School Access Safety design issues identified in the School Access Safety Audit must also be incorporated into new school designs. Local law enforcement and emergency services officials should be consulted during the planning phase of the new school design to provide input regarding emergency services. All school designs must be submitted to the SBA for review and comment as provided for in the SBA Guidelines and Procedures Manual.~~

~~III. SBA REVIEW OF SCHOOL ACCESS SAFETY PROJECTS~~

~~As funding becomes available, the SBA will notify county boards of the submission schedule for projects. The amount of funding for each county will be provided to allow counties to match their project scope of work with the funding available. The SBA will review each project based on the following:~~

- ~~1. How the School Access Safety Project advances student health and safety needs;~~
- ~~2. How the School Access Safety Project will assure prudent and resourceful~~

~~expenditure of state funds, and~~
3. ~~How the project furthers the overall goals and objectives of the School Access Safety Plan, the county board's comprehensive educational facilities plan and the overall goals and objectives of the SBA.~~

safetyplan