

Appeals Process:

Occasionally a facility may feel like a violation has been cited incorrectly or that the violation was not an accurate interpretation of the code requirement. In these cases, the facility would need to submit an appeal to the Office of the State Fire Marshal.

K.S.A 31-140 grants any person the ability to appeal any violation within 15 days from the date of the violation by filing a written notice of such appeal in the office of the state fire marshal.

The state fire marshal will review the appeal within 30 days after receipt and will make a final decision. Unless the violation is revoked or modified, the violation must be appropriately addressed within the normal timeframes of providing a plan of correction.

What is an Appeal?

It's important to understand that an appeal is a written statement that you (the facility) think that the violation is inaccurate.

An appeal is not a method to:

- "Grandfather" a pre-existing, non-conforming condition (See Compensatory Measures)
- Avoid correction due to high cost (See Waiver)
- Delay correction for any reason (See Waiver)

Filing an Appeal:

Facilities must submit the appeal on official company letterhead and must contain detailed information regarding the basis for the appeal. Facilities have two options when submitting an appeal: desk review or formal hearing. You must indicate which option you are requesting.

The information below must be provided within the appeal notice:

- Facility reference number
- Date of appeal notice
- Inspection date
- Violation being disputed
- Regulatory information supporting appeal
- Title and Signature of person submitting the appeal
- Further contact information

What about the Plan of Correction?

A written plan of correction is required to be submitted to OSFM within the original allotted timeframes regardless of if a facility is submitting or has submitted an appeal. Facilities must address the disputed violation as if the violation will be upheld. If a decision to revoke or modify the violation is made, then the facility will receive a new violation notice. However, if the violation is upheld, the facility's plan of correction will be ready for final approval.

Compensatory Measures:

Existing buildings are allowed to remain in operation unless they have conditions considered “distinctly hazardous” to the occupants. A “distinctly hazardous” condition is generally defined as the lack of minimum exiting or other fire safety features that would not allow a speedy exit from a building.

How to request a compensatory measure:

When a “distinctly hazardous” condition is identified by a Kansas State Fire Marshal inspector, the owner or operator must provide documentation to provide a proposed corrective timetable to correct the identified problem, offer alternative fire safety features believed to provide equivalent protection, or apply for compensatory measures. If you are going to apply for a compensatory measure, you must obtain a written and stamped professional judgement from a Kansas licensed architect or engineer.

Most common conditions:

Traditionally the Office of the State Fire Marshal will consider a compensatory measure for the following three “distinctly hazardous” conditions in buildings:

- 1) Non-rated stair enclosures for buildings without fire escapes from every room
- 2) Dead-end corridor exceeding distance specified for the occupancy type
- 3) No basement atmospheric separation from other floors

Most common compensatory measures:

The Office of the State Fire Marshal will review and consider professional judgements from a Kansas licensed architect or engineer. However, the most traditional compensatory measure is the installation of a complete or partial smoke detection system. This concept is based on the automatic early detection and notification of the occupants and their speedy evacuation prior to the exit way being obstructed by smoke.

These compensatory measures may be considered as providing an acceptable level of life safety for an existing facility when all components (equipment, design, installation, and maintenance) meet or exceed NFPA 72 requirements.

The smoke detection system is typically acceptable when all of the following are provided:

- 1) Smoke detectors are installed in the common atmosphere of the entire exit path.
- 2) The system is designed and installed in accordance with National Fire Protection Association (NFPA) 72- the national fire alarm code adopted in Kansas.
- 3) New equipment is powered from the building’s electrical power.
- 4) Plans of the new or modified system are submitted to the Office of the State Fire Marshal for review and acceptance.
- 5) System will be serviced, tested, maintained, and documented as required by standards or by the Kansas Buildings Fire Safety Handbook (a minimum of an annual inspection and maintenance by qualified person or firm).

This acceptance is subject to a final inspection by an authorized representative of the Office of the State Fire Marshal.

In any case, it is the facility's responsibility to initiate consideration and to maintain copies of any supporting documentation when accepted.

Public Events:

Indoor public events at schools held after regular hours, whether sports, drama or academic gatherings, bring large numbers of occupants and an increased risk of incident. Regardless of who is holding the event, THE BUILDING OWNER IS RESPONSIBLE for providing adequate fire and life safety for those attending or participating.

Steps shall be taken before the event to verify that all required exits are operable, accessible, and in good working order. This means no blocked access, storage, or junk accumulated in exit corridors. Verify that the building's fire alarm system is on and operable. Proper emergency light and/or generator tests shall have been conducted and documented within specified timeframes to make sure they will be operable during the events. Verify that written instructions covering emergency procedures, exiting, or emergency shelter procedures, including pre-written announcements for fire, severe weather or bomb threat situations are available to event announcers. In situations where severe weather is possible, staff and ushers shall verify that shelters are accessible and are ready for use.

At events attended by more than 300 persons (not including school assemblies which are not open to the general public), either a voice announcement shall be made at the beginning of each event or a written notice provided in programs, stating: "In accordance with the Office of the State Fire Marshal regulations, we request that you take a moment to identify the two emergency exits closest to you. We have checked these exits and the other emergency equipment in this building and verify they are available for use in case of emergency. In case of an emergency, pay close attention to the announcer or your usher for important life safety information." or equivalent language.

At events attended by more than 1,000 persons, trained crowd managers/ushers shall be provided at a ratio of at least 1 crowd manager for every 250 occupants. The level of training requirements will vary from facility to facility; however, basic training should include familiarization with fire and tornado alarm sounds, knowledge of exit and storm refuge locations, and appropriate behaviors during an emergency.

During the event, no vehicles shall be parked in a manner that will block the safe total exiting of occupants from any exit door. At no time can more than the set maximum number of occupants be admitted to the event. Aisles and corridors shall be maintained and shall not be blocked by chairs, tables, or spectators. Ushers shall be aware of procedures and responsibilities in case of fire or other panic-producing situations. Every year many public assembly events occur in Kansas schools without incident; however, these items provide an increased level of safety in the event something goes wrong.