



February 10, 2020
By Electronic Mail and U.S. Postal Mail

Timothy Shelly, Esq.
Attorney for the Petitioner
Warrick & Boyn, LLP
861 Parkway Avenue
Elkhart, IN 46516
tshelly@warrickandboyn.com

Re: Petitions for Administrative Review

IDHS Report of Inspection No. B98E-D231, Violation No. 2 – Jimtown Intermediate School
IDHS Report of Inspection No. C218-393A, Violation No. 1 – Jimtown South Elementary School

Dear Mr. Shelly:

The Fire Prevention and Building Safety Commission (Commission) is in receipt of your electronically-filed petitions for administrative review of IDHS Report of Inspection No. B98E-D231, Violation No. 2 – Jimtown Intermediate School, **AND** IDHS Report of Inspection No. C218-393A, Violation No. 1 – Jimtown South Elementary School, submitted on behalf of Petitioner Byron Sanders on Wednesday, February 5, 2020. Pursuant to the requirements of Indiana Code § 4-21.5-3-7, your petitions for administrative review are hereby granted by the Commission.

Your petition has been assigned to the Commission's administrative law judge. The judge's office will contact you to make arrangements for further proceedings. Should you have any questions, you may contact our deputy general counsel assigned to this matter, Justin Guedel, at JGuedel@dhs.in.gov or (317) 234-9515.

Sincerely,

Douglas J. Boyle, Director
Fire Prevention and Building Safety Commission
Indiana Department of Homeland Security
302 W. Washington Street, Room E-208
Indianapolis, IN 46204
doboyle@dhs.in.gov
(317) 650-7720

Enclosure

cc: Byron Sanders, Petitioner – Superintendent of Baugo Community Schools (by U.S. postal
mail and electronic mail)
Justin K. Guedel, IDHS Deputy General Counsel – Representing the Respondent (by personal
service and electronic mail)
Office of Attorney General Curtis Hill – Administrative Law Judge (by electronic mail)

From: noreply@formstack.com
To: [DHS Legal Mailbox](#)
Subject: Petition for Review
Date: Wednesday, February 5, 2020 4:04:13 PM
Attachments: [68379161_20200205110325640.pdf](#)

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Formstack Submission For: [petition for review](#)

Submitted at 02/05/20 4:03 PM

**Individual
Name:**

Byron Sanders

**Business
Name: :**

Baugo Community Schools

**Phone
Number:**

(574) 293-8583

**Email
Address:**

bsanders@baugo.org

**Mailing
Address:**

Baugo Community Schools c/o Byron Sanders,
Superintendent
29125 COUNTY ROAD 22 WEST
Elkhart, IN 46517

**Are you
represented
by an
attorney?:**

Yes

**Attorney
Name:**

Timothy Shelly

Firm:

Warrick & Boyn, LLP

Phone Number: 5742947491

Email Address: tshelly@warrickandboyn.com

Mailing Address: Warrick & Boyn c/o Tim Shelly
861 Parkway Avenue
Elkhart, IN 46516

Order Number:

Facility | Device | Boiler ID: Inspection Number B98E-D231, Inspection Number C218-393A

Date Order Received: Jan 22, 2020

How did you receive the Order? : Email

Entity Issuing Order: Indiana Department of Homeland Security

Entity Name:

Upload Order: [View File](#)

Was this order specifically directed to you?: Yes

Explain: The report order requires that all exit doors (including all classroom doors) be readily accessible without special knowledge to operate door. (Lockdown device)

Have you been aggrieved or

adversely affected by the order?:	Yes
Explain:	The removal of the lockdown devices will impact the safety procedures and tools that Baugo has implement for the safety of the students and staff in the case of an armed intruder. Baugo Schools understands that there are also concerns about ability to exit the classroom with this lockdown device in case of a fire, but Baugo Schools will ensure that a key to unlock the device is readily accessable and will follow Indiana law requirements once there is confirmation that there is no threat of an armed intruder and the building must be evcatuated for a fire emergency.
If the order was not specifically directed to you and you have not been aggrieved or adversely affected by the order, are you entitled to review under some other law? :	No
What law?:	The Fire Marshall cited Sec. 1008.1.8 2008 Edition IBC as well as IAC 13-2.5 for the order to maintain all exit doors (including all classroom doors) to be readily accessible without special knowledge to operate door (lockdown device). This code section referenced above, 675 IAC 13-2.5, was repealed in December 2014 by the Fire Prevention and Building Safety Commission. Indiana Administrative Code 675 13-2.6 states that the International Building Code, 2012 Edition, is adopted by reference as if fully set out, with exceptions. Additionally, Sec. 1008. 1.8 2008 Edition IBC, is outdated as well. As referenced above, the Indiana Administrative Code has adopted the 2012 edition of

the IBC.

The Indiana Department of Education is working with the Fire Marshall and Baugo Schools to attempt to find a solution that will allow Baugo Schools to maintain their security procedures and tools, while also complying with fire safety regulations and concerns. Other Indiana schools have implemented similar lockdown devices for the safety of their schools and Baugo Schools would like to retain theirs, as student safety is the top priority.

I request review of the entire order described above:

No

If you are not requesting review of the entire order, what is the scope of your request?:

Inspection Number C218-393A, Violation #1 - Order stating "Maintain all exit doors (including classroom doors) to be readily openable from egress side without special knowledge or effort."

Inspection Number B98E-D231, Violation #2 -Order stating "Maintain all exit doors (including all classroom doors) to be readily accessible without special knowledge to operate door. (Lockdown device)."

I request a stay of effectiveness:

Yes

What is the basis of your challenge? :

The code citations are no longer valid and the Indiana Department of Education is currently reviewing these requirements to evaluate fire safety concerns and lockdown requirements. Other Indiana schools have similar lockdown devices that have not caused issues during fire drills and fire emergencies.

The Indiana Department of Education is working with the Fire Marshall to try to reach a solution to allow necessary fire emergency evacuation while also allowing lockdown devices at schools to protect students and staff from armed intruders. The main concern is student safety.

What is your desired outcome? :

Approval to retain the lockdown devices and keep the key secure in a teacher or administrator's possession to allow them to unlock the device in case of a fire emergency during a lockdown and there is confirmation of no presence of an armed intruder.

Additional information in support of my request:

Additional Attachments:

Additional Attachments:

Additional Attachments:

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Formstack, 11671 Lantern Road, Suite 300, Fishers, IN 46038

Report of Inspection

Indiana Department of Homeland Security
302 W. Washington Street, Room E208 Indianapolis, IN 46204
Phone: 317-232-2222

State Number	Inspection Number
SC1707C	B98E-D231

Visit us at: <http://www.in.gov/dhs>

Date	01/22/2020 02:52PM	Type	Annual
Results	Violations Found		
Location		Owner	
Name	JIMTOWN INTERMEDIATE SCHOOL	Name	n/a
Street	58703 CR 3	Street	29125 CR 22 WEST
City	ELKHART	City	ELKHART
Zip	46517	Zip	46517
		Contact	-
Inspector		Item	
Name	Chad Sharp	State Number	SC1707C
Email	CSharp@dhs.IN.gov	Type	School
		CDRs	

Violations Found

#	Code	Description	Order	Correct By	Fee
1	Sec. 315.3 2014 Edition IFC 675 IAC 22-2.5	Storage of materials in buildings shall be orderly and stacks shall be stable. Storage of combustible materials shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.	Maintain all storage areas to be orderly and stable.	02/22/2020	\$0.00
2	Sec. 1008.1.8 2008 Edition IBC 675 IAC 13-2.5	Except as specifically permitted by this section egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort.	Maintain all exit doors (including all classroom doors) to be readily accessible without special knowledge to operate door. (Lockdown device)	02/22/2020	\$0.00
3	Sec. 1006.3 2008 Edition IBC 675 IAC 13-	The power supply for means of egress illumination shall normally be provided by the premises' electrical supply. In the event of power supply failure, an emergency electrical system shall automatically illuminate the following areas: 1. Aisles and unenclosed egress stairways in rooms and spaces that require two or more means of egress. 2. Corridors, exit enclosures and exit passageways in buildings required to have two or more exits. 3. Exterior egress components at other than the level of exit discharge until exit discharge is accomplished for buildings required to have two or more exits. 4. Interior exit discharge elements, as permitted in Section 1024.1, in buildings required to have two or more exits. 5. Exterior landings, as required by	Maintain emergency lighting to operate on battery backup, as	02/22/2020	\$0.00

	2.5	Section 1008.1.5, for exit discharge doorways in buildings required to have two or more exits. The emergency power system shall provide power for a duration of not less than 90 minutes and shall consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with Section 2702.	intended.		
4	Sec. 1030.6 2014 Edition IFC 675 IAC 22- 2.5	Means of egress doors shall be maintained in such a manner as to be distinguishable from the adjacent construction and finishes such that the doors are easily recognizable as doors. Furnishings, decorations or other objects shall not be placed so as to obstruct exits, access thereto, egress therefrom, or visibility thereof. Hangings and draperies shall not be placed over exit doors or otherwise be located to conceal or obstruct an exit. Mirrors shall not be placed on exit doors. Mirrors shall not be placed in or adjacent to any exit in such a manner as to confuse the direction of exit.	Maintain all exit doors to be free from decorations and curtains.	02/22/2020	\$0.00
5	Sec. 807.4.3.2 2014 Edition IFC 675 IAC 22- 2.5	Artwork and teaching materials shall be limited on the walls of corridors to not more than 20 percent of the wall area.	Maintain artwork & teaching materials to be less than 20% of wall space.	02/22/2020	\$0.00
6	Sec. 5303.5 2014 Edition IFC 675 IAC 22- 2.5	Compressed gas containers, cylinders, tanks and systems shall be secured against accidental dislodgement and against access by unauthorized personnel in accordance with Sections 5303.5.1 through 5303.5.3.	Maintain compressed gas cylinders to be secured at all times.	02/22/2020	\$0.00
7	Sec. 605.6 2014 Edition IFC 675 IAC 22- 2.5	Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.	Place approved covers on open junction boxes and switch covers.	02/22/2020	\$0.00
8	Sec. 605.5 2014 Edition IFC 675 IAC 22- 2.5	Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.	Fused power strips are the allowable way to extend permanent outlets, not extension cords.	02/22/2020	\$0.00
9	Sec. 605.4.2 2014 Edition IFC 675 IAC 22- 2.5	Relocatable power taps shall be directly connected to a permanently installed receptacle.	Maintain power strips to be plugged directly into a permanent outlet, not daisy chained together.	02/22/2020	\$0.00

10	Sec. 907.4.2.6 2014 Edition IFC 675 IAC 22- 2.5	Manual fire alarm boxes shall be accessible, unobstructed, unobscured and visible at all times.	Maintain fire alarm pull stations to be unobstructed at all times. (Kitchen area)	02/22/2020	\$0.00
11	Sec. 907.8.5 2014 Edition IFC 675 IAC 22- 2.5	The building owner shall be responsible to maintain the fire and life safety systems in an operable condition at all times. Service personnel shall meet the qualification requirements of NFPA 72 for maintaining, inspecting and testing such systems. A written record shall be maintained and shall be made available to the fire code official.	Provide proper documentation of most recent annual fire alarm and annual sprinkler testing report.	02/22/2020	\$0.00
12	Sec. 405.5 2014 Edition IFC 675 IAC 22- 2.5	Records shall be maintained of required emergency evacuation drills and include the following information: 1. Identity of the person conducting the drill. 2. Date and time of the drill. 3. Notification method used. 4. Staff members on duty and participating. 5. Number of occupants evacuated. 6. Special conditions simulated. 7. Problems encountered. 8. Weather conditions when occupants were evacuated. 9. Time required to accomplish complete evacuation.	Updated fire drill record sheet will be provided.	02/22/2020	\$0.00

If you are receiving this document, property that you own or have control over, has been, or was attempted to be, inspected by the Indiana Department of Homeland Security (Department). Depending on the outcome of this inspection, one of four different **RESULTS** was notated. See the first page for the **RESULT** of this inspection. The following describes what each **RESULT** means:

INSPECTION NOT POSSIBLE

This report is to notify you that the Department attempted to perform an inspection of your property, but was unable to for some reason. If you have not already spoken with your inspector regarding this, please contact him or her immediately.

NO VIOLATIONS FOUND

This report is to notify you that the Department performed an inspection of your property, and no violations were found to exist. However, please be aware that obtaining a **RESULT** of "no violations found" does not mean that no violations exist on your property or may be found during a later inspection.

EMERGENCY OR TEMPORARY ORDER

This report is to notify you that the Department has determined that conduct or a condition of property:

1. presents a clear and immediate hazard of death or serious bodily injury to any person other than a trespasser;
2. is prohibited without a permit, registration, certification, release, authorization, variance, exemption, or other license and the license has not been issued; or
3. will conceal a violation of law.

This order must immediately be complied with, up to and until such time that: (1) it expires; (2) an order is issued by an administrative law judge voiding, terminating, modifying, or staying its effectiveness; or (3) the Department terminates its effectiveness. If you desire a hearing regarding this order, you may submit your request by either of the following methods:

U.S. MAIL

Indiana Department of Homeland Security
Fire Prevention and Building Safety Commission
c/o Legal Counsel
302 W. Washington Street, Rm. E208
Indianapolis, IN 46204

ONLINE

By completing the form at
<https://www.in.gov/dhs/appeals.htm>

NOTICE OF VIOLATIONS

This report is to notify you that violations are believed to exist on your property. However, if you enter into a correction plan

and correct these violations by the correction date provided in this report, no enforcement actions or sanctions will commence. If you fail to enter into a correction plan, the Department will move forward with enforcement of this order and the imposition of sanctions.

If you would like to enter into a corrective plan, you must notify your inspector, in writing, within five (5) days of receiving this report.

Terms of correction plan:

1. I agree to correct the violations contained on this report by the date provided.
2. I understand my failure to correct these violations by the correction date will result in the enforcement of this report and sanctions, including, but not limited to, a fine of \$250 per day per.
3. I understand no extensions of time are permitted unless they are granted in writing by the Department.
4. I understand that entering into this corrective plan is not an admission that a violation has occurred.
5. I agree to protect the safety and property of other persons as outlined by the Department while corrections are underway.
6. I agree to notify the Department, by the compliance date, that all violations have been corrected, and I am aware that my failure to do so may result in sanctions being ordered.
7. I understand that in order for the Department to determine compliance, an additional inspection may be performed and the Department must notify me of the determination of my compliance within thirty (30) days following the earlier of: (a) the correction date contained in this report; or (b) the date the Department is provided notice that the violations have been corrected.

If you choose not to enter into a correction plan and would like to request **informal review** of this report, please complete the informal review form located at <https://www.in.gov/dhs/appeals>. Following receipt of this form, the Department may modify or reverse the report, and will attempt to respond to your request within five (5) business days, however, a request for an informal review does not extend the deadline for filing a petition for review. Additionally, if you have any questions regarding this report, you may contact that Department at (317) 232-2222.

If you do not enter into a corrective plan or receive a determination modifying or reversing this report, the requirements of this report are effective fifteen (15) days after service and must be complied with until such time that: (1) this order is overturned on review; (2) an administrative law judge issues a stay of enforcement; or (3) the Department consents to the request for a stay in writing.

If you desire a formal administrative review of these violations, you must comply with the requirements of Indiana Code § 4-21.5-3-7 and file a written petition for review within fifteen (15) days after receiving notice of these violations. You may submit your petition by either of the following methods:

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For additional information about the administrative review process and applicable templates that may be used for filings, visit the following link <https://www.in.gov/dhs/appeals.htm>.

Report of Inspection

Indiana Department of Homeland Security
302 W. Washington Street, Room E208 Indianapolis, IN 46204
Phone: 317-232-2222

State Number	Inspection Number
SC1705C	C218-393A

Visit us at: <http://www.in.gov/dhs>

Date	01/22/2020 03:17PM	Type	Annual
Results	Violations Found		
Location		Owner	
Name	JIMTOWN SOUTH ELEMENTRY	Name	n/a
Street	58901 CR 3 SOUTH	Street	29125 CR 22 WEST
City	ELKHART	City	ELKHART
Zip	46517	Zip	46517
		Contact	
Inspector		Item	
Name	Chad Sharp	State Number	SC1705C
Email	CSharp@dhs.IN.gov	Type	School
		CDRs	

Violations Found

#	Code	Description	Order	Correct By	Fee
1	Sec. 1008.1.8 2008 Edition IBC 675 IAC 13-2.5	Except as specifically permitted by this section egress doors shall be readily openable from the egress side without the use of a key or special knowledge or effort.	Maintain all exit doors (including classroom doors) to be readily openable from egress side without special knowledge or effort.	02/22/2020	\$0.00
2	Sec. 1006.3 2008 Edition IBC 675 IAC 13-2.5	The power supply for means of egress illumination shall normally be provided by the premises' electrical supply. In the event of power supply failure, an emergency electrical system shall automatically illuminate the following areas: 1. Aisles and unenclosed egress stairways in rooms and spaces that require two or more means of egress. 2. Corridors, exit enclosures and exit passageways in buildings required to have two or more exits. 3. Exterior egress components at other than the level of exit discharge until exit discharge is accomplished for buildings required to have two or more exits. 4. Interior exit discharge elements, as permitted in Section 1024.1, in buildings required to have two or more exits. 5. Exterior landings, as required by Section 1008.1.5, for exit discharge doorways in buildings required to have two or more exits. The emergency power system shall provide power for a duration of not less than 90 minutes and shall consist of storage batteries, unit equipment or an on-site generator. The installation of the emergency power system shall be in accordance with Section 2702.	Maintain emergency lighting to operate on battery backup.	02/22/2020	\$0.00
	Sec.	Dryer exhaust ducts for clothes dryers shall terminate on the outside of the building and shall be equipped with a backdraft			

3	504.4 2014 Edition IMC 675 IAC 18- 1.6	damper. Screens shall not be installed at the duct termination. Ducts shall not be connected or installed with sheet metal screws or other fasteners that will obstruct the exhaust flow. Clothes dryer exhaust ducts shall not be connected to a vent connector, vent or chimney. Clothes dryer exhaust ducts shall not extend into or through ducts or plenums.	Remove sheet metal screws from clothes dryer exhaust vents.	02/22/2020	\$0.00
4	Sec. 605.6 2014 Edition IFC 675 IAC 22- 2.5	Open junction boxes and open-wiring splices shall be prohibited. Approved covers shall be provided for all switch and electrical outlet boxes.	Place approved cover on open junction boxes.	02/22/2020	\$0.00
5	Sec. 605.5 2014 Edition IFC 675 IAC 22- 2.5	Extension cords and flexible cords shall not be a substitute for permanent wiring. Extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings or floors, or under doors or floor coverings, nor shall such cords be subject to environmental damage or physical impact. Extension cords shall be used only with portable appliances.	Fused power strips are the allowable way to extend permanent outlets, not extension cords.	02/22/2020	\$0.00
6	Sec. 605.4.2 2014 Edition IFC 675 IAC 22- 2.5	Relocatable power taps shall be directly connected to a permanently installed receptacle.	Maintain fused power strips to be plugged directly into a permanent outlet, not daisy chained together.	02/22/2020	\$0.00
7	Sec. 315.3.1 2014 Edition IFC 675 IAC 22- 2.5	Storage shall be maintained 2 feet (610 mm) or more below the ceiling in nonsprinklered areas of buildings or a minimum of 18 inches (457 mm) below sprinkler head deflectors in sprinklered areas of buildings. Exception: Sidewall storage to a maximum depth of thirty (30) inches (seventy-six and two-tenths (76.2) centimeters) shall be acceptable to the ceiling in nonsprinklered buildings.	Maintain proper storage height in all storage areas.	02/22/2020	\$0.00
8	Sec. 315.3 2014 Edition IFC 675 IAC 22- 2.5	Storage of materials in buildings shall be orderly and stacks shall be stable. Storage of combustible materials shall be separated from heaters or heating devices by distance or shielding so that ignition cannot occur.	Maintain all storage areas to be orderly and stable.	02/22/2020	\$0.00
9	Sec. 907.8.5 2014 Edition IFC 675 IAC 22- 2.5	The building owner shall be responsible to maintain the fire and life safety systems in an operable condition at all times. Service personnel shall meet the qualification requirements of NFPA 72 for maintaining, inspecting and testing such systems. A written record shall be maintained and shall be made available to the fire code official.	Provide proper documentation of most recent annual fire alarm testing report.	02/22/2020	\$0.00

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