



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



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SUPERINTENDENT OF
PUBLIC INSTRUCTION

April 9, 2003

MEMORANDUM

TO: State Board of Education

FROM: Tom Watkins 

SUBJECT: Adoption of No Child Left Behind Unsafe School Choice Policy

To be eligible to receive funds under the No Child Left Behind Act of 2001, each state must establish and implement a Statewide Unsafe School Choice Policy. The Policy requires that:

Any student who is a victim of a violent criminal offense has the right to transfer to another public school within the district, including public school academies (charter schools).

All students have the right to transfer to another school in the district, including public school academies, if the school is labeled a "persistently dangerous school." Each state is granted individual authority to develop the state's definition of a "persistently dangerous school" and develop the state's definition of a "pupil who has been the victim of a violent criminal offense."

States receiving federal funds under this section must certify in writing to the Secretary that the state is in compliance with this legislation.

The USCO requires each state to adopt a statewide policy that allows a pupil to transfer to a safe school, including a public school academy, within the school district in either one of two circumstances:

If the pupil is attending a "persistently dangerous school" (NCLB requires the state to define "persistently dangerous school" in consultation with a representative sample of local educational agencies within the state); or

2. If the pupil has been the "victim of a violent criminal offense." (NCLB requires the state to define "victim of a violent criminal offense" based upon state law.)

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The State Board of Education reviewed a prior draft of the Michigan Statewide Unsafe School Choice Policy at its March 27, 2003 meeting. A brief history of Policy's development was included in the cover memo to the Board Item.

The draft Policy submitted to the State Board of Education contained five parts: definition of pupil attending a persistently dangerous school; definition of a pupil who has been the victim of a violent criminal offense; options available to pupils attending persistently dangerous schools and to pupils who have been the victims of a violent criminal offense; reporting requirements; and requirements for submitting a correction action plan. An Appendix was attached to the Policy listing planning and prevention programs (environmental assets) that schools might implement to prevent violence and respond to violent incidents that threaten school safety.

Several members of the State Board of Education expressed a desire to simplify the Policy to meet the legislative requirements of the NCLB USCO Policy without making the document overly cumbersome. There was also a request that the Policy language be phrased in a more comprehensible manner. The public input portion of the meeting included individuals and organizations expressing a desire to simplify the list of offenses incorporated in the Part I of the Policy.

In response to input from the State Board and the public, the USCO Policy has been reduced to three pages with no attachments. Information on planning and prevention programs will be a separate endeavor to be completed at a later date. The list of offenses has been shortened and the legislative citations and explanations have been removed.

Henry Hastings, Acting Director of the Michigan Institute for Safe Schools and Communities at MSU submitted another policy draft for your consideration. He has used Don Weatherspoon's work as a starting point. I also received a memo from Jim Ballard indicating that he worked with Henry to refine the definition of "unsafe schools" and that his work is acceptable to the association.

Henry has also provided a "paper in progress" written by two professors that provides a clear and concise review of the Persistently Dangerous Schools mandate. If you are interested in reading that paper, please call Marilyn Schneider to obtain a copy.

NO CHILD LEFT BEHIND ACT OF 2001, P.L. 107-110

STATE UNSAFE SCHOOL CHOICE POLICY PROVISION

Title IX, Part E, Subpart 2, Section 9532

To be eligible to receive funds under the No Child Left Behind Act of 2001, each state must establish and implement a Statewide Unsafe School Choice Policy (Policy). The Policy requires that:

- Any student who is a victim of a violent criminal offense has the right to transfer to another public school within the district, including public school academies (charter schools).
- All students have the right to transfer to another school in the district, including public school academies, if the school is labeled a “persistently dangerous school.” Each state is granted individual authority to:
 - Develop the state’s definition of a “persistently dangerous school.”
 - Develop the state’s definition of a “pupil who has been the victim of a violent criminal offense.”
- States receiving federal funds under this section must certify in writing to the Secretary that the state is in compliance with this legislation.

MICHIGAN STATEWIDE UNSAFE SCHOOL CHOICE POLICY

- 1 Any pupil who attends a designated persistently dangerous school shall be allowed to attend a safe public school, including a public school academy, in the school district. The district board of education shall offer the pupils attending a designated persistently dangerous school the opportunity to transfer to a safe school within the district and, for those pupils who accept the offer, complete the transfer.
- 2 Any pupil who becomes the victim of a violent criminal offense at the school in which the victim is enrolled shall be allowed to attend a safe public school, including a public school academy, within the district.

As used in this Policy, “at school” means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event, whether or not it is held on school premises. For offenses that occur on a school vehicle or at a school-sponsored activity or event, whether or not it is held on school premises, the offense need only be reported by the perpetrator’s district of residence.

A “persistently dangerous school” designation will be given to each Michigan public elementary school or secondary school, including public school academies, if for each school year, for two consecutive years, more than 2.5 percent of pupils enrolled in the school have been expelled by the board of education of a public school district for more than ten consecutive days, for violent criminal offenses committed at school.

A pupil shall be considered to be a victim of a violent criminal offense when the pupil, or his or her parent or legal guardian:

- Has made an official written complaint to law enforcement officials, and to school officials of the pupil’s district residence, that the pupil has been the victim of a violent criminal offense; and
- If the official complaint indicates that the violent criminal offense occurred at school

Violent criminal offenses include:

- Arson
- Physical Assault
- Bomb Threat or Other Verbal Assault
- Criminal Sexual Conduct
- Possession of a Dangerous Weapon
- Possession of a Firearm.

The Michigan State Board of Education does not imply that a pupil must be convicted of a violent criminal offense before he or she can be expelled. All definitions referred to in this policy are to be construed according to the fair import of their terms, to promote justice, and to effect objects of the law. Whether a pupil has committed an offense warranting expulsion for more than ten consecutive days is a determination to be made by the local school board or its designee, at its discretion and as permitted by law. Moreover, this Policy does not limit the reasons a school board may suspend or expel a pupil.

Reporting Required by the Michigan Statewide Unsafe School Choice Policy:

Each public school district/public school academy board falling within the state criteria described below shall prepare and submit a report on each persistently dangerous school in the school district. The report shall be simultaneously submitted to the intermediate school district superintendent and State Superintendent of Public Instruction (SPI) no later than 30 days after the close of the school year, commencing with the 2002-03 school year. Each district school board shall report the following:

1. If more than 2.5 percent of the pupils enrolled in a school have been expelled for offenses identified in this Policy, then the LEA board of education shall identify the school, report on how many pupils are enrolled in the school, and the nature and number of offenses committed by pupils identified in this Policy. At the time the report is submitted, the LEA board shall notify the SPI, the LEA ISD Superintendent, and the parents of each pupil attending the school that the school has been identified as a persistently dangerous school.
2. If a pupil who has been the victim of a violent criminal offense, as identified in this Policy, elects to transfer to a safe public school or public school academy within the school district, then the LEA board of education shall identify in the report the pupil's original school and the school to which the pupil is transferred, as well as the offense of which the pupil was a victim.

Corrective Action Plan Required by the Michigan Statewide Unsafe School Choice Policy:

Each public school board, with a school within its jurisdiction that has been designated as a persistently dangerous school, shall submit a corrective action plan to the SPI for approval. The corrective action plan must be submitted to the SPI within 30 days of the district board's report and notification to the SPI that the school has been identified as a persistently dangerous school.

The corrective action plan shall address the issues that resulted in the school being identified as persistently dangerous. Upon completion of its corrective action plan, a school district may apply to the SPI to have the school removed from the list of persistently dangerous schools.

This Policy may be reviewed periodically by the State Board of Education.

APRIL 4, 2003

**NO CHILD LEFT BEHIND ACT OF 2001
H.R. 1**

--DRAFT--

**MICHIGAN STATEWIDE UNSAFE
SCHOOL CHOICE POLICY
(Title IX, Part E, Subpart 2, Section 9532)**

Henry Hastings

PREAMBLE

Whereas, the Michigan State Board of Education (Board) endorses and promotes the principle that all Michigan schools must have or create and maintain safe and drug free learning environments that foster academic achievement;

Whereas, the Board, in consultation with a representative sample of local educational agencies (LEAs); the Office of Drug Control Policy, which administers Title IV, Part A Safe Schools and Communities Act funds; The Michigan Association of Secondary School Principals; The Education Alliance of Michigan, a prominent group of directors and executive directors from the leading education, business, and parent associations; The Office of K-12 Outreach in the College of Education at Michigan State University; The Michigan Institute for Safe Schools and Communities at Michigan State University; The Michigan Safe School Initiative, School of Criminal Justice at Michigan State University; and other state and local stakeholders, crafted a Persistently Dangerous Schools policy in compliance with No Child Left Behind Act of 2001.

Whereas, the Board will utilize Michigan's uniform management data gathering service to develop valid and reliable building level school crime and safety data. The Center for Educational Performance and Information (CEPI), pursuant to Michigan's revised school code and federal legislation, monitors school violence and disciplinary problems, and tracks the number of permanent expulsions (185 days or greater) and temporary expulsions (fewer than 185 days but greater than 10 days).

Whereas, the Board recognizes and promotes in its policies the importance of a proper school climate: a climate that is safe and secure enhances the ability of students to realize academic achievement and thrive. Accordingly, the Board also monitors other relevant school behavior for early warning signs that relate to the potential of violence and other troubling behavior. Among many Board initiatives, the Bullying and Safe Schools Policies particularly reflect this concentration of effort on school climate and prevention.

Whereas, the Board monitors this additional behavioral data in order to alert schools in a timely manner of potential violent behavioral trends; to marshal state, local and community resources to put in place an effective corrective action plan to avoid or remove the Persistently Dangerous School designation; and to provide technical assistance.

UNSAFE SCHOOL CHOICE POLICY
Part I
PERSISTENTLY DANGEROUS SCHOOL DEFINITION

Now Therefore, the Michigan Board of Education hereby adopts the following Unsafe School Choice Policy, pursuant to Title IX, Part E, Subpart 2, Section 9532, of the No Child Left Behind Act of 2001:

A **Persistently Dangerous School** designation will be given to each elementary, middle, or secondary school, or public school academy if:

For each school year for three consecutive years, more than 2.5 percent of pupils enrolled in the school have been permanently expelled (185 days or more) or temporarily expelled (less than 185 days but greater than 10 days) for violent offenses found in Michigan Compiled Laws, including but not limited to:

Arson in a school building or on school grounds; Assault: Physical assault by a pupil against a school employee, volunteer, or contractor; Assault: Physical assault by a pupil against another pupil; Bomb Threat or Similar Threat; Illegal Controlled Substance: Possession; Illegal Controlled Substance: Delivery or Possession with Intent to Deliver; Criminal Sexual Conduct: CSC1, CSC2, CSC3 in a school building or on school grounds; Possession of a Dangerous Weapon; Extortion; Armed/Unarmed Robbery; Also, if 2.5 percent of students enrolled in a school elect the Part II option of this policy.

By reference to state law, the Michigan State Board of Education does not imply that a pupil must be convicted of a defined offense before he or she can be expelled. All offenses referred to in this policy shall be construed according to the fair import of their terms, to promote justice, and to effect objects of the law, and shall not be strictly construed. Whether a pupil has committed an offense warranting permanent or temporary expulsion, as hereinbefore defined, is a determination to be made by the local school board at its discretion as permitted by state law. Moreover, these enumerated violent offenses does not limit the reasons a school board may suspend or expel a pupil.

**OPTION OF A PUPIL WHO HAS BEEN THE VICTIM OF A
VIOLENT CRIMINAL OFFENSE**
Part II

Any pupil who becomes the victim of a violent criminal offense at the school in which the victim is enrolled shall be allowed to attend a safe public school within the district. As used in this policy:

A pupil shall be considered to be a victim of a violent criminal offense when the pupil or his or her parent or legal guardian has made an official written complaint to law enforcement officials and to school officials of the pupil's district of residence that the pupil has been the victim of a violent criminal offense, if the official complaint indicates that the violent criminal offense occurred at school.

"At school" means in a classroom, elsewhere on school premises, on a school bus or other school-related vehicle, or at a school-sponsored activity or event, whether or not it is held on school premises. For purposes of this policy, a violent criminal offense would be a one-on-one violent offense, and not a whole school offense such as a bomb threat or arson.

REPORTING

REPORTING REQUIRED BY THE STATEWIDE UNSAFE SCHOOL CHOICE POLICY

Each school board shall prepare and submit to the district's Intermediate School District (ISD) Superintendent and the Superintendent of Public Instruction (SPI), in the form and manner prescribed by the SPI, no later than 30 days after the close of each school year, commencing with the 2002-2003 school year, a report for each school in the district. For purposes of this policy, June 30 is the close of the school year. Each school district shall report the following:

1. Whole School Option Reporting

If more than 2.5 percent of the pupils enrolled in a school have been expelled for offenses identified in this policy, then the board of education shall identify the school and shall report how many pupils are enrolled in the school, and the nature and number of offenses committed by pupils identified in this policy. Additionally, the school board shall notify the SPI, the district's ISD Superintendent, and the parents of each pupil attending the school that the school has been identified as a persistently dangerous school. The school board shall offer the pupils attending a school designated as a persistently dangerous school the opportunity to transfer to a safe school within the district, and, for those pupils who accept the offer, complete the transfer.

Each school board with a school within its jurisdiction that has been designated as a persistently dangerous school shall submit a corrective action plan to the Superintendent for approval. Pursuant to U.S. Department of Education non-regulatory guidelines, corrective action should be based on an analysis of the problems faced by the school and address the issues that resulted in the school being identified as persistently dangerous. Some examples of corrective action include hiring additional personnel to supervise students in common areas, increased instructional activities in areas such as conflict resolution, working with law enforcement officials to identify and eliminate gang-related activities, in-service training of teachers and administrators concerning consistent enforcement of school discipline policies, limiting access to campuses, and hiring of security personnel or purchase of security equipment.

Also, consistent with applicable requirements such as those contained in the *Safe and Drug-Free Schools and Communities Act* "Principles of Effectiveness," Safe and Drug-Free Schools and Communities Act State Grant program funds may be used to implement planned corrective actions [section 4115]. LEAs may also consider using the flexibility provided under Section 6123(b) of the ESEA, which provides for the transfer, under certain circumstances, of funds from one ESEA program to another. Detailed information concerning the permissible uses of transferred funds will soon be available in non-regulatory guidance which will be released this summer. **State and local resources may also be used to help schools implement corrective action.** The corrective action plan shall address the issues that resulted in the school being identified as persistently dangerous. Upon completion of its correction action plan, a school district may apply to the SPI to have the school removed from the list of persistently dangerous schools.

2. Individual Pupil Option Reporting

If a pupil who has been the victim of a violent criminal offense, as defined in this policy, elects to transfer to a safe school within a district, then the board of education shall identify in the report the pupil's original school and the school to which the pupil transferred, as well as the offense of which the pupil was a victim.