



STATE OF MICHIGAN
DEPARTMENT OF EDUCATION
LANSING



ANIFER M. GRANHOLM
GOVERNOR

THOMAS D. WATKINS, JR.
SUPERINTENDENT OF
PUBLIC INSTRUCTION

DRAFT

April 22, 2003

MEMORANDUM

TO: State Board of Education
FROM: Thomas D. Watkins
SUBJECT: Adoption of the Statewide Unsafe School Choice Policy

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

- Any pupil who is a victim of a violent criminal offense has the right to transfer to another school within the district, including a public school academy (charter school).
- All pupils enrolled in a school identified as a Persistently Dangerous School have the right to transfer to another school in the district, including a public school academy. Each state is granted individual authority to develop the state's definition of a Persistently Dangerous School and to 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 of the United States Department of Education that the state is in compliance with this legislation.

The Policy provision of the Act 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 school identified as a Persistently Dangerous School (the Act requires the state to define "persistently dangerous school" in consultation with a representative sample of local educational agencies within the state); or

If the pupil has been the "victim of a violent criminal offense" at school (the Act 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 two prior drafts of the Michigan Statewide Unsafe School Choice Policy at its meetings of March 27, 2003 and April 17, 2003.

After further review and discussion, the Policy has been revised in order to incorporate, to the extent possible, additional suggestions and input from educators and stakeholders in Michigan public education and school safety. The Policy now includes a Resolution by the State Board and amended language, to the extent possible, in the Policy, in order to recognize valued contributions from a wide and diverse study group that contributed to the crafting of this Policy.

Information on prevention programs, or school assets, will be a separate endeavor, to be completed at a later date. The list of offenses has been shortened and lengthy legislative citations and explanations have been removed. An existing document listing state and federal safe schools legislation will be expanded and completed at a later date. These documents will be compiled for the purpose of providing technical assistance to school districts when implementing the Policy.

It is recommended that the State Board of Education approve the Michigan Statewide Unsafe School Choice Policy, as attached to the Superintendent's memorandum dated April 22, 2003

STATE OF MICHIGAN
STATE BOARD OF EDUCATION

RESOLUTION ON THE STATEWIDE UNSAFE SCHOOL CHOICE POLICY

WHEREAS, to be eligible to receive funds under the No Child Left Behind Act of 2001 (Act), each state must establish and implement a Statewide Unsafe School Choice Policy (Policy); and

WHEREAS, the Michigan State Board of Education (State Board) recognizes and has consistently promoted in its Policies that providing a safe school environment for our students is of the utmost importance for Michigan's public schools (Policies on Bullying, July 19, 2001; Policies on Safe Schools, May 18, 2000); and

WHEREAS, the State Board, in consultation with a diverse representative sample of Michigan local educational agencies (school districts); intermediate school districts, institutions of higher education, state and local agencies, private organizations, child advocates, and other state and local stakeholders, crafted a State Unsafe School Choice Policy, in compliance with the No Child Left Behind Act of 2001, P.L. 107-110, Title IX, Part E, Subpart 2, Section 9532; and

WHEREAS, the State Board will utilize the Michigan Education Information System (MEIS) to develop valid and reliable school district and building-level expulsion and crime incident data. The Center for Educational Performance and Information (CEPI), pursuant to the Michigan Revised School Code, 1976 PA 451, as amended, and other state and federal legislation, collects expulsion and crime incident data through the MEIS, single record student database and school infrastructure database; and

WHEREAS, the State Board recognizes that a fear-free, positive learning climate is essential to both teaching and learning, and that all students are entitled to a safe and secure learning environment; and

WHEREAS, Policies adopted by the State Board are issued as guidelines for local schools as they work to achieve safer schools for Michigan's children; and

WHEREAS, Policies adopted by the State Board serve as a policy framework for the Michigan Department of Education; and

WHEREAS, the State Board, in its role of providing leadership and general supervision over Michigan public education, shall provide guidance for the implementation of the State Unsafe School Choice Policy provision of the No Child Left Behind Act, including technical assistance to Michigan school districts, in order to meet our shared goal that all Michigan students be educated in safe, drug-free environments; and

WHEREAS, the NCLB 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); and

WHEREAS, All students have the right to transfer to another school within the school district, including public school academies, if the school is labeled a Persistently Dangerous School; and

WHEREAS, each state is granted individual authority to develop the state's definition of a Persistently Dangerous School and to develop the state's definition of a "pupil who has been the victim of a violent criminal offense";

RESOLVED, that the Michigan State Board of Education hereby adopts the State Unsafe School Choice Policy, pursuant to Title IX, Part E, Subpart 2, Section 9532, of the No Child Left Behind Act of 2001.

ADOPTED _____, 2003

**NO CHILD LEFT BEHIND ACT OF 2001, P.L. 107-110
Title IX, Part E, Subpart 2, Section 9532**

MICHIGAN STATEWIDE UNSAFE SCHOOL CHOICE POLICY

As used in this Policy, all references to Michigan school districts include elementary or secondary public schools and public school academies (charter schools).

2. As used in this Policy, “school board” means a school board, intermediate school board, or the board of directors of a public school academy.
3. Any pupil enrolled in a school identified as a Persistently Dangerous School shall be allowed to attend a safe school within the school district. The school board shall offer the pupils attending a school identified as a Persistently Dangerous School with the opportunity to transfer to a safe school within the school district. For those pupils who accept the offer, the school board shall complete the transfer in a timely manner.
4. Any pupil who becomes the victim of a violent criminal offense at the school in which the pupil is enrolled shall be allowed to attend a safe public school within the school district. The school board shall offer the pupil the opportunity to transfer to a safe public school within the school district within ten days of receiving the official complaint described herein.

DEFINITION OF A PERSISTENTLY DANGEROUS SCHOOL

A public elementary school or secondary school shall be identified as a Persistently Dangerous School if for each school year, for three consecutive years, more than 2.5 percent of pupils, or five pupils enrolled in the school, whichever is greater, have been expelled by the school board or its designee, as described in MCL 1311(1) of the Revised School Code, for more than ten consecutive days, for committing at school any of the following offenses, as defined by the Revised School Code:

- Arson;
- Physical Assault;
- Bomb Threat or Similar Threat;
- Criminal Sexual Conduct;
- Possession of a Dangerous Weapon; or

If, for each school year, for three consecutive years, more than 2.5 percent of pupils or five pupils enrolled in the school, whichever is greater, have been victims of a violent criminal offense as defined herein.

Alternative education programs and strict discipline academies that are appropriate for expelled individuals are exempt from this Policy, and the pupils attend these facilities are not allowed the right to transfer to another school.

Juvenile detention facilities are exempt from this Policy

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 bus, other school-related 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 offender's district of residence.

The Michigan State Board of Education does not imply that a pupil must be convicted of an 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 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.

DEFINITION OF VICTIM OF VIOLENT CRIMINAL OFFENSE

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 at school; and

If the official complaint indicates that the violent criminal offense occurred at school.

As used in this Policy, "violent criminal offense" means an act that constitutes criminal sexual conduct as defined by the Revised School Code, constituting a felony violation of MCL 750.81 to 750.90g; or that constitutes an assault and infliction of serious or aggravated injury under MCL 750.81a.

**REPORTING REQUIRED BY THE
MICHIGAN STATEWIDE UNSAFE SCHOOL CHOICE POLICY**

Each school board with a school within its jurisdiction 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 State Superintendent of Public Instruction (SPI) and intermediate school district superintendent no later than 30 days after the close of the school year, commencing with the 2002-03 school year. Each school board shall report as follows:

WHOLE SCHOOL 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 school board, or the Center for Education Performance and Information, upon completion of the MEIS data collection, identifies a school as a Persistently Dangerous School, 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 school board shall notify the SPI and intermediate school district superintendent, and the parents of each pupil attending the school, that the school has been identified as a Persistently Dangerous School.

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 the school district, then the school board 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 school board, with a school within its jurisdiction that has been identified 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 school 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 board 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.