

Delaware Guidelines for the Development of the Unsafe School Choice Option



No Child Left Behind



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Unsafe Schools Choice Option

Title IX, Section 9532

- This program requires that students in unsafe situations be allowed to choose to a safe school in the same school district, including a charter school; provided such an option exists in the district, the student should be permitted to transfer to a school that is making adequate yearly progress and has not been identified as being in school improvement.
- Transfers must be allowed for two reasons:
 1. When a school is determined to be “persistently dangerous,” and
 2. When a student becomes the victim of a violent crime at a school.

Persistently Dangerous Schools

- **Persistently Dangerous School** means a school that has five or more unsafe incidents for every one hundred students enrolled for three consecutive fiscal years.
- A student attending a persistently dangerous school shall be allowed to choice to a safe school in the same school district, including a charter school; provided such an option exists in the district, the student should be permitted to transfer to a school that is making adequate yearly progress and has not been identified as being in school improvement, corrective action or restructuring.

When a School is Determined to be “Persistently Dangerous”

Each public school district having one or more persistently dangerous schools and any charter school identified as a persistently dangerous school shall develop a plan and time line that describes the process for notifying parents of the school’s status and for relocating any student who exercises the right to choice to a safe school. The plan shall also describe the corrective actions that will be implemented. The plan shall be forwarded to the Department of Education no later than September 15th of the year that the school is identified.

School Climate &
Discipline Program



When a Student Becomes the “Victim of a Violent Crime” at a School

A student who is the victim of a violent felony while in or on the grounds of a school in which the student is enrolled shall be allowed to choose to a safe school, generally within ten calendar days, in the same school district, including a charter school; the student should be permitted to transfer to a school that is making adequate yearly progress and has not been identified as being in school improvement, corrective action or restructuring.

The transfer is optional – the student is not required to transfer, but the offer for such a move must be made.

Del.Code T-11 § 4201 (c) The following felonies shall be designated as violent felonies:

Title 11

	Section	Crime
	513	<i>Conspiracy 1st Degree</i>
	602	<i>Aggravated Menacing</i>
	604	<i>Reckless Endangering 1st Degree</i>
605		<i>Abuse of a Pregnant Female in the 2nd Degree</i>
606		<i>Abuse of a Pregnant Female in the 1st Degree</i>
	612	<i>Assault in the 2nd Degree</i>
	613	<i>Assault in the 1st Degree</i>
	614	<i>Assault on a Sports Official</i>
	615	<i>Assault by Abuse</i>
	617	<i>Criminal Youth Gangs</i>
	629	<i>Vehicular Assault in the 1st Degree</i>
630		<i>Vehicular Homicide in the 2nd Degree</i>
630A		<i>Vehicular Homicide in the 1st Degree</i>
	631	<i>Criminally Negligent Homicide</i>
	632	<i>Manslaughter</i>
633		<i>Murder by Abuse or Neglect in the 2nd Degree</i>
634		<i>Murder by Abuse or Neglect in the 1st Degree</i>
	635	<i>Murder in the 2nd Degree</i>

Title 11

	Section	Crime
	636	<i>Murder in the 1st Degree</i>
	645	<i>Promoting Suicide</i>
768		<i>Unlawful Sexual Contact in the 2nd Degree</i>
769		<i>Unlawful Sexual Contact in the 1st Degree</i>
	770	<i>Rape 4th Degree</i>
	771	<i>Rape 3rd Degree</i>
	772	<i>Rape 2nd Degree</i>
	773	<i>Rape 1st Degree</i>
	774	<i>Sexual Extortion</i>
	775	<i>Bestiality</i>
	776	<i>Continuous Sexual Abuse of Child</i>
	777	<i>Dangerous Crime Against a Child</i>
777A		<i>Sex Offender Unlawful Sexual Conduct Against a Child</i>
778		<i>Sexual Abuse of a Child by a Person in Position of Trust 1st degree</i>
778A		<i>Sexual Abuse of a Child by a Person in Position of Trust 2nd degree</i>
	782	<i>Unlawful Imprisonment in the 1st Degree</i>
	783	<i>Kidnapping in the 2nd Degree</i>
	783A	<i>Kidnapping in the 1st Degree</i>
	802	<i>Arson in the 2nd Degree</i>
	803	<i>Arson in the 1st Degree</i>
	825	<i>Burglary in the 2nd Degree</i>
	826	<i>Burglary in the 1st Degree</i>
	831	<i>Robbery in the 2nd Degree</i>
	832	<i>Robbery in the 1st Degree</i>

Title 11

Section Crime

	835	<i>Carjacking in the 2nd Degree</i>
	836	<i>Carjacking in the 1st Degree</i>
	846	<i>Extortion</i>
	1108	<i>Sexual Exploitation of a Child</i>
	1109	<i>Unlawfully Dealing in Child Pornography</i>
	1112A	<i>Sexual Solicitation of a Child</i>
1250		<i>Assault in the 1st Degree Against a Law-Enforcement Animal</i>
	1253	<i>Escape After Conviction</i>
	1254	<i>Assault in a Detention Facility</i>
1256		<i>Promoting Prison Contraband (Deadly Weapon)</i>
	1302	<i>Riot</i>
	1304	<i>Hate Crimes</i>
	1312	<i>Stalking</i>
1338		<i>Bombs, Incendiary Devices, Molotov Cocktails and Explosive Devices</i>
	1339	<i>Adulteration (Causing Injury or Death)</i>

Title 11

Section Crime

1353 *Promoting Prostitution in the 1st Degree*

1442 *Carrying a Concealed Deadly Weapon (Firearm Offense)*

1444 *Possessing a Destructive Weapon*

1445 *Unlawfully Dealing With a Dangerous Weapon*

1447 *Possessing a Deadly Weapon During the Commission of a Felony*

1447A *Possessing a Firearm during the Commission of a Felony*

1455 *Engaging in a Firearms Transaction on Behalf of Another
(Subsequent Offense)*

1448E *Possession of a Deadly Weapon by Persons Prohibited*

1449 *Wearing Body Armor During the Commission of a Felony*

1455 *Engaging in a Firearms Transaction on behalf of Another
(subsequent offense)*

1503 *Racketeering*

3533 *Aggravated Act of Intimidation*

Also....

Title 16

	Section	Crime
	1136	<i>Abuse/Mistreatment/Neglect of a Patient</i>
	4752	<i>Drug Dealing – Aggravated Possession Class B</i>
	4753	<i>Drug Dealing – Aggravated Possession Class C</i>
	4754	<i>Drug Dealing – Aggravated Possession Class D</i>
	4755	<i>Aggravated Possession Class E</i>
	4756	<i>Aggravated Possession Class F</i>
	4774	<i>Delivery of Drug Paraphernalia to a Minor</i>

Title 31

	Section	Crime
	3913	<i>Abuse/Neglect/Exploit/Mistreat an Infirm Adult</i>

Charges of “attempt to commit” any felony designated in these subsections as a violent felony shall also be designated as a violent felony. For example, “*Attempt to commit first degree murder*” is considered a violent felony just as “*committed first degree murder.*”

Notifying Parents

- Each public school district having one or more persistently dangerous schools and any charter school identified as a persistently dangerous school **shall develop a plan and time line that describes the process for notifying parents of the school's status and for relocating any student who exercises the right to choice to a safe school.** The plan shall also describe the corrective actions that will be implemented. The plan shall be forwarded to the Department of Education no later than September 15th of the year that the school is identified.
- All school districts and charter schools **shall establish a plan that describes their policies and procedures for providing school choice options to a student who is the victim of a violent felony, including the process for notifying parents.** These plans shall be forwarded to the Department of Education by September 15, 2003.

Developing Policies & Procedures

- Notification to parents or guardians is within ten school days from the time that the District learns that the school has been identified as persistently dangerous.
- Development of a corrective action plan and the offer to students of the opportunity to transfer is within twenty school days from the time that the school district and charter school learns that the school has been identified as persistently dangerous. Transfers of students should occur within 30 school days.

Developing Policies & Procedures

- **All school districts and charter schools shall submit its corrective action plan to the Delaware Department of Education.**
- After approving a corrective action plan, the Delaware Department of Education may provide technical assistance as the plan is implemented and will monitor the District's timely completion of the approved plan.

Developing Policies & Procedures

Types of Corrective Action That May be Taken

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 placement of personnel to supervise students in common areas, increased instructional activities in areas such as conflict resolution, in-service training of teachers and administrators concerning consistent enforcement of school discipline policies, and limiting access to campuses.

Developing Policies & Procedures

Resources Available to Help Schools Implement Corrective Action

- 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]. Districts 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.
- State and local resources may also be used to help schools implement corrective action.

Any Questions Regarding UNSAFE SCHOOLS CHOICE OPTION (USCO)

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