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**NO CHILD LEFT BEHIND ACT OF 2001:
REAUTHORIZATION OF ELEMENTARY
AND SECONDARY EDUCATION ACT**

RESEARCH AND EDUCATIONAL SERVICES

FACT SHEET 9: UNSAFE SCHOOL CHOICE OPTION

Section 9532 of the No Child Left Behind Act of 2001 also mandates public school choice for students that have been a victim of a violent criminal offense or attend a “persistently dangerous school.” Section 120.5 of the Regulations of the Commissioner of Education establishes procedures to ensure school districts implement these requirements.

SCHOOL CHOICE FOR VICTIMS OF A VIOLENT CRIMINAL OFFENSE —

Beginning with the 2002-03 school year, a student who is a victim of a violent criminal offense that occurred on the grounds of the school that the student attends shall be allowed to transfer to another school within the district. According to this new requirement, each school district must establish procedures to determine whether a student has been the victim of a violent criminal offense on the grounds of the school that the student attends. Each school district must also develop “objective criteria” to designate a safe public school or schools within the district to which students may transfer.

A violent criminal offense has been defined as a “crime that involved infliction of serious physical injury upon another as defined in the penal law, a sex offense that involved forcible compulsion, or any other offense defined in the penal law that involved the use or threatened use of a deadly weapon.” The school superintendent is responsible for determining whether or not a student has been the victim of a violent criminal offense. Prior to making such determinations, the law enforcement agency investigating the alleged violent criminal offense must be consulted.

Each school must also establish procedures for notification to parents of students who are victims of a violent criminal offense. The notification, which must inform parents of their child’s right to transfer to a safe public school within the district, must be provided within 24 hours of the determination that the student has been a victim of a violent offense. If there are no other schools within the district to transfer to, no notification is required.

SCHOOL CHOICE FOR STUDENTS ATTENDING A “PERSISTENTLY DANGEROUS SCHOOL” —

Beginning with the 2003-04 school year, public school choice will also be available to all students who attend a school that has been designated by the Commissioner as being “persistently dangerous.” Once the designation has been made that the school is “persistently dangerous,” the school district must notify parents of all students attending the school of their right to transfer to another school within the district. This parental notice must be provided within ten days of the Commissioner’s notification of the school district that a school is “persistently dangerous.” On or before July 1 of each year commencing in 2003, the Commissioner will notify each school district with schools that are designated as “persistently dangerous.” Schools are designated “persistently dangerous” if they have two successive years of serious incidents that meet or exceed criteria established by the State Education Department. The criteria is a ratio of violent incidents to enrollment in a school that is determined by the number and type of incidents. Each incident is given a weighting based on the seriousness of the incident. The weightings are added. The result is then divided by enrollment. This yields a numerical index of school violence.

A school is considered “persistently dangerous” if it has either:

- An index of 1.5 (This is approximately 6 incidents per 100 students, more or less depending on the seriousness of the incidents.), **OR**
- At least 60 serious incidents and index of at least .50.

Each school that is identified as “persistently dangerous” must submit an Incident Reduction Plan for each school to show the specific steps that the district will take to reduce the number of violent incidents and improve safety at the school. Each school also receives a \$100,000 grant to help improve school safety. Staff from the New York State Center for School Safety and Regional support Centers also provide help to each school to improve safety.

Each school that has been identified will be annually reassessed using the agreed upon criteria for the identification of “persistently dangerous.”

— FREQUENTLY ASKED QUESTIONS —

VICTIMS OF A VIOLENT CRIMINAL OFFENSE —

1. **Question:** *What should a school district do when a student has been a victim of a violent criminal offense?*

Answer: Within ten calendar days, any student who has been a victim of a violent criminal offense should be provided with the opportunity to transfer to another school within the district.

2. **Question:** *What if there is not another school within the district for the student to transfer to?*

Answer: School districts are encouraged, but not required, to explore other options such as agreements with neighboring districts to accept transfer students.

3. **Question:** *Is the student that has been a victim of a violent criminal offense required to transfer to another school?*

Answer: No. The student may elect to remain at the same school and not transfer to another school within the district.

4. **Question:** *If a student who has been the victim of a violent criminal offense chooses to transfer to another school within the district, must the school district provide transportation for the student?*

Answer: Yes. The school district must provide transportation for any student that is permitted to transfer to another public school within the district consistent with the transportation limits in the Education Law.

STUDENTS ATTENDING A “PERSISTENTLY DANGEROUS SCHOOL —

1. **Question:** *How will schools be designated as “Persistently Dangerous?”*

Answer: Using two years of data submitted through the violent incident reporting system, and a numerical index of school violence which is a ratio of serious incidents to enrollment, the Commissioner will designate schools as “Persistently Dangerous.” Serious incidents include: homicide, forcible and other sexual offenses, robbery, assault resulting in serious physical injury, arson, kidnapping, reckless endangerment, and possession, use or threatened use of a weapon.

2. **Question:** *Once designated as “Persistently Dangerous,” how long will a school remain identified?*

Answer: Each year the State Education Department will annually reassess the schools using the agreed upon criteria for identification.

3. **Question:** *When will districts be notified if any of their schools are designated as “Persistently Dangerous?”*

Answer: The State Education Department anticipates that districts will be notified sometime in the summer of 2008.

4. **Question:** *If a school district has a school that has been designated as “Persistently Dangerous,” what must they do?*

Answer: The school district must develop an Incident Reduction Plan which will be submitted to the State Education Department for approval.

— ADVICE TO LOCAL LEADERS —

1. Local leaders should review their school district’s procedures for determining whether or not a student has been the victim of a violent criminal offense and the criteria used to designate a school within the district to which a student may transfer.
2. Local leaders should review their school district’s data on violent or disruptive incidents that is reported to the State Education Department under the *2000 Safe Schools Against Violence in Education Act* and work with school administrators on strategies to assist schools at risk of being identified, or identified, as persistently dangerous.