

Bulletin No. 03.07

November 12, 2003

## Topic: ESEA Intradistrict Safe School Transfer Option

### Overview

The Elementary and Secondary Education Act (ESEA) reauthorization included a new provision related to school safety, entitled the Unsafe School Choice Option (Sec. 9532). This bulletin is designed to help explain how this new provision impacts local school districts and alternatives for students.

### Questions

**1. What does Sec. 9532, Unsafe School Choice Option of the Elementary and Secondary Education Act, state?**

Sec. 9532 Unsafe School Choice Option

- (a) UNSAFE SCHOOL CHOICE POLICY – Each State receiving funds under this Act shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school.
- (b) CERTIFICATION – As a condition of receiving funds under this Act, a State shall certify in writing to the Secretary that the State is in compliance with this section.

**2. What process did the Department of Public Instruction follow to develop Wisconsin's policy?**

Chapter PI 23, Wisconsin Administrative Code, was created to establish and implement the statewide policy regarding the requirements of Sec. 9532 of ESEA following consultation with the Wisconsin School Administrators Alliance, a series of public hearings, and review by the Wisconsin Legislature.

**3. How is it determined if a Wisconsin public school is “persistently dangerous” under Chapter PI 23?**

The Department of Public Instruction gathers data about individual schools within public school districts through the annual School Performance Report, including suspensions and

expulsions. Any school that for three or more consecutive years has (1) suspended 5% of the student body for weapons-related offenses or (2) expelled 1% of the student body or five students, whichever number is higher, for assault/endangering behavior or weapons-related offenses will be required to submit a report to the department on safety conditions in the school. Information considered in determining whether a school is persistently dangerous will include:

- the school's safety plan
- local efforts to address the school's safety concerns
- the school safety data reported to the state consistent with requirements of Title IV, Safe and Drug-Free Schools and Communities
- current data the school may have available not reflected in the annual School Performance Report
- other information deemed relevant by the department

Schools may use the formula in the Appendix to calculate their current rate of violence-related suspensions and expulsions.

**4. What timelines exist related to the identification of schools that are identified as persistently dangerous?**

The following timelines apply:

- School districts will report 2002-03 suspension and expulsion data as part of their School Performance Report. Beginning in the 2003-04 school year, suspension and expulsion data will be reported by June 30 each year.
- Within 30 days of receiving the suspension and expulsion data, the department will notify all school boards with one or more schools that exceed the criteria described under question 3.
- School boards have up to 30 days (after receiving notification from the department) to submit the information listed under question 3.
- The department will notify a school board in writing whether or not the school under review has been identified as persistently dangerous within 30 days of receiving the information submitted by the school board.
- Within ten working days of this notification, the school board must notify in writing the parents/guardians of the students enrolled in the school that the school has been identified as persistently dangerous. The notice shall include an offer for students to attend another appropriate grade level public school operated by the school district if one is available, including a public charter school.
- Accepted offers for transfer must be completed within 30 days of the school board being notified by the department that the school has been identified as persistently dangerous.

**5. Once a school has been determined to be persistently dangerous, how long does that designation last?**

The school is designated as persistently dangerous until the school no longer meets or exceeds either of the criteria listed under question 3 and updated information is submitted by the school board documenting that necessary steps have been taken to increase safety at the school. That is, the department will review the latest school performance data and updated information submitted from the school in the year following the school's designation as persistently dangerous to determine whether the school continues to be persistently dangerous.

**6. For the purposes of a student who has been victimized being allowed to transfer to another school, what offenses meet the standard of a “violent criminal offense”?**

The Appendix to Chapter PI 23 (attached) lists the felonies that constitute a violent criminal offense under the ESEA intradistrict safe school transfer option. To be considered a violent criminal offense for the purposes of transfer to another school, the incident must occur during established school hours or during a school-sponsored event and must be reported to the appropriate law enforcement agency and to the building principal.

**7. If a student is the victim of a violent criminal offense under the following circumstances, is this student entitled to attend another school?**

- **While away from the school he/she attends but during a school-sponsored activity, e.g., while on a school-sponsored field trip?** No, because the student was not victimized while on school grounds. Chapter PI 23 specifically addresses safety while on school grounds.
- **While on the school grounds of the school he/she attends but not during school hours or during a school-sponsored event, e.g., on a weekend afternoon?** No. School authorities have little control over who comes onto school grounds and what they do when school authorities are not present.
- **While on school grounds during a school-sponsored event but not during regular school hours, e.g., a Friday evening basketball game?** Yes, but only if the student was victimized while at the school he/she attends. Chapter PI 23 makes no provision for victimization while at a school that is not the school the student regularly attends.
- **While being transported to or from school for the purposes of attending curricular programs?** Yes. Students are entitled to transportation to and from school if they live beyond a designated distance from school. Schools are responsible to provide for safe transportation.
- **While traveling on the school bus to or from a school-sponsored activity or field trip?** No. Chapter PI 23 makes no provision for victimization under these circumstances.
- **While walking to and from school for the purposes of attending curricular programs?** No. Chapter PI 23 makes no provision for victimization while not on school grounds. However, schools are encouraged to work with community resources and organizations to promote safe pedestrian pathways.

**8. What notification timelines exist regarding students being identified as victims of violent criminal offenses?**

The following timelines apply:

- Within ten working days of the incident being reported to the building principal and the appropriate law enforcement agency, the school board (or the school board’s designee) must determine (if necessary, in consultation with the investigating law enforcement agency) if the incident constitutes a violent criminal offense as defined within Chapter PI 23.
- If the incident is determined to be a violent criminal offense, the parents/guardian of the victimized student must be notified within the same ten working days of the

choice to attend another appropriate grade level public school operated by the school district if one is available, including a public charter school.

- Accepted offers for transfer must be completed within 30 days of the student accepting the offer to transfer.

**9. Are students who attend another school under one of the provisions of Chapter PI 23 entitled to school transportation?**

Yes, if the student lives a sufficient distance from the new school or otherwise meets the transportation criteria of the school district's local transportation policy.

**10. If a school district operates only one school at a particular grade level, e.g., high school, and it is designated as persistently dangerous or if one of its students is a victim of a violent criminal offense, do(es) the student(s) have the right to transfer to another grade-appropriate school?**

No. Chapter PI 23 only gives students the right to transfer to another school within their respective school district. However, school districts with only one school at a particular grade level may choose to accommodate a transfer to a school in another school district upon request of the parent or adult student.

**11. How can someone get additional information about the Unsafe School Choice Policy?**

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