

**FLORIDA DEPARTMENT OF EDUCATION
PROPOSED UNSAFE SCHOOL CHOICE OPTION (USCO) POLICY**

The federal No Child Left Behind (NCLB) Act included a new provision related to school safety entitled the Unsafe School Choice Option (USCO), Title IX, Part E., Subpart 2, Section 9532 of Public Law 107-110. This law requires states receiving ESEA funds to identify persistently dangerous schools and provide students in such schools the option of attending a safe school as well as provide students who are victims of certain crimes on school grounds the option of attending another safe school. The Florida Department of Education (FDOE) has solicited input from the Safe and Drug-Free Schools (SDFS) Advisory Group (consisting of LEA staff in the SDFS area), SDFS coordinators, the Florida Association of District School Superintendents, the Partnership for School Safety and Security (made up of school administrators and a teacher, school board association representative, parents, and law enforcement officer), School Emergency Management Plans Interagency Group; other states, and other stakeholders in the districts and FDOE to help develop the state policy required by this new federal provision.

Specifically, Section 9532 states:

(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 another 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.

Based on the NCLB requirements, it should be noted that there are two options for students under the law—the group (persistently dangerous school) option and the individual (victim) option. The state assurance must cover both. The group option pertains to the definition of a persistently dangerous school and students' option if attending a school that is so designated. The individual option pertains to any individual student who becomes a victim of a violent crime as defined by state law on his/her school grounds. Florida law takes the individual option a step further. Section 1006.13(5), Florida Statutes (F.S.), prohibits the offender from attending the same school or riding on the same school bus as the victim or victim's sibling(s), with certain qualifications. Therefore, in Florida, the victim may choose to remain at his/her school and have the offender attend another school within the district.

Proposed Policy

The Florida Department of Education’s proposed statewide Unsafe School Choice Option policy on students attending a persistently dangerous public elementary or secondary school or who become a victim of a violent criminal offense while on the grounds of a public elementary or secondary school is to provide those students with the opportunity to attend a safe public elementary school or secondary school within the local educational agency. The Department requires local school board policies to be consistent with federal law, including the Individuals with Disabilities Education Act of 1997.

1. Persistently Dangerous Schools Definition (Group Option)

A public school in Florida shall receive a “persistently dangerous school” designation if, for three consecutive years, each of the two following conditions persist:

- The school has a federal gun-free schools violation ("gun-free schools violation" means a student who is determined to have brought a firearm to a school, or to have possessed a firearm at school based on the federal Gun-Free Schools Act); "firearm" means handgun, rifle, shotgun or other type of firearm (section 921 of title 18, *United States Code*); and
- The school has expelled one percent (1%) or more of a student body that is greater than 500 students or five (5) students if the student body is 500 students or less, whichever number is higher, for incidents of crime and violence that are homicide, battery, sexual battery, or weapons possession related, as reported in the School Environmental Safety and Incident Report (SESIR) System and the discipline data system. If a school meets the expulsion criterion, then it shall conduct an anonymous school-wide climate survey determined by the Florida Department of Education. If the majority (51%) of students, parents, and school personnel responding to the climate surveys perceive the school to be unsafe as evidenced by the results of the surveys administered by the school district, then the school meets this criterion.

2. Individual Option for Students Who Become Victims of Violent Criminal Offenses

Whenever any student has been the victim of a felony violation or a violation that would be a felony if committed by an adult, pursuant to:

- Section 782.051, relating to attempted felony murder;
- Chapter 784, relating to assault, battery, stalking, and culpable negligence;
- Chapter 787, relating to kidnapping, false imprisonment, luring or enticing a child, and custody offenses;
- Chapter 794, relating to sexual battery;
- Chapter 800, relating to lewdness and indecent exposure;
- Chapter 827, relating to abuse of children;
- Section 812.13, relating to robbery;
- Section 812.131, relating to robbery by sudden snatching; or
- Section 812.133, relating to carjacking;

and such crime was committed by another student attending classes in the school, or by any employee of the school board, or by any volunteer, contract worker or other person who regularly performs services in the school, or if the crime was committed upon school property or on school transportation, the student upon whom the crime was committed shall, upon written request from the student's parent, or the student, if such student is an emancipated minor, be permitted by the relevant school board to transfer to another comparable school determined by the school board, if available. In order to be considered a violent criminal offense for the purposes of transferring to another school, it is necessary that the incident be reported to the appropriate law enforcement agency. The parent of the victim or the victim (if an emancipated minor) of any such felony may invoke the transfer option once the state attorney files charges against the offender. Any transportation services for such students shall be provided in accordance with school board policies.

NOTE: *Some of the statutes listed above include both misdemeanors and felony offenses. Section 1006.13(5), F.S., refers only to felony offenses or offenses that would be a felony if committed by an adult.*