An OIG Perspective on the Unsafe School Choice Option

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U.S. Department of Education
Office of Inspector General
Philadelphia, Pennsylvania

ADDENDUM

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This Perspective Paper was primarily based on the five audits that we conducted. The paper also took into account information, including media reports and a District of Columbia Inspector General report that came to our attention through our research subsequent to the audits. The purpose of this Addendum is to present information on the sources of certain data used in Issue 1 of the Perspective Paper that is not delineated within the document, as follows:

South Carolina

Data-"In one district, 222 simple assaults occurred in 2001.[1] In 2002, 595 criminal incidents were reported in this district.[2] Another district reported 271 simple assaults in the 2001-02 school year.[1] In a third district, 13 aggravated assaults occurred during the 2003-04 school year and another 13 aggravated assaults were reported from September to November of the 2004-05 school year."

Source-***The Sun News-Myrtle Beach Online, dated February 6, 2005***
www.myrtlebeachonline.com

California

Data-"During the 2000-01 school year, California schools reported 32,869 offenses that fell into the category of "crimes against persons." Of those, 27,682 were for battery, ... Overall, crimes against persons accounted for 35% of the crimes reported. Battery was the most common crime reported: 29% of all reported incidents were batteries."

Source-**California Department of Education (CDE) Safe Schools and Violence Prevention\California Safe Schools Assessment Results 2000-2001-posted on the CDE website February 28, 2002** www.cde.ca.gov/spbranch/safety/cssa/cssa.asp

Data-"One high school in Los Angeles had 289 cases of battery, two assaults with a deadly weapon, a robbery and three sex offenses in one school year, but still did not meet the state's criteria for PDS."

Source-***The Los Angeles Times*, dated July 2003; the data was obtained from the National School Board Association website** www.districtadministration.com

[1] According to the article, this data was based on published statistics.
[2] According to the article, this data was based on South Carolina's 2002 published School Crime Incident report.

Texas

Data-"In Houston schools, 761 assaults were reported to the Texas Education Agency over four years. In contrast, district police recorded 3,091 assaults that occurred in Houston schools over the same period."

Source-***The New York Times*, dated November 7, 2003,** obtained from http://query.nytimes.com/gst/fullpage.html?res=9B05EFDA1539F934A35752C1A9659C8B63

Data-"In 2001-02, Texas public school students committed 678,600 punishable offenses and 7,460 students were expelled.[3]"

Source-***San Antonio Express-News*, dated December 7, 2003**, obtained from http://news.mysanantonio.com

Georgia

Data-"From January through April of the 2004-05 school year, police arrested 12 students on charges ranging from arson to simple assault and aggravated battery. Police reported that 295 violent incidents resulting in arrest occurred at schools in this district from January 2000 to December 2004."

Source-***The Albany Herald* (on-line) dated July 10, 2005**. The reporter obtained the data from police reports, school discipline forms and other records. www.albanyherald.com

Maryland

Data-"In Maryland, a policy that determined PDS based on one year of incident data was discarded because it would have identified 36 schools. A State Education Agency official stated, "We're not a big state, and 36 would be a huge number."

Source-***USA Today*, dated March 10, 2003**. The State Education official was quoted in the article. www.usatoday.com

[3] According to the article, this data was reviewed by the Texas Education Agency.

EXECUTIVE SUMMARY

The purpose of this paper is to provide the U. S. Department of Education (the Department) and Congress with our perspective on issues relating to the Unsafe School Choice Option (USCO) provision of the Elementary and Secondary Education Act (ESEA), as amended by the No Child Left Behind (NCLB) Act of 2001, that should be taken into consideration when the ESEA is reauthorized.

The USCO provision of the ESEA requires states receiving ESEA funds to establish and implement a policy requiring that a student attending a persistently dangerous public school, or who becomes a victim of a violent criminal offense on school grounds, be provided the opportunity to transfer to a safe school within the district. The Department's *Unsafe School Choice Option Non-Regulatory Guidance* provided a suggested framework for developing and implementing an USCO policy. States made the initial determination of persistently dangerous schools (PDS) in July 2003. States must certify compliance with USCO to the Department annually as a condition of eligibility for ESEA funds.

During a series of audits of USCO compliance, the Office of Inspector General (OIG) noted that the benchmarks in the criteria for determining PDS were not set at reasonably obtainable levels in four of the five states we reviewed.[1] Based on our concern that states were not using effective criteria to identify PDS, we conducted additional research on the criteria to determine PDS nationwide. We found that over 50 percent of the states did not follow Departmental non-regulatory guidance for setting the criteria used to determine PDS. We identified common trends in state USCO policies that are not consistent with the non-regulatory guidance, including 1) common violent offenses being excluded from the PDS determination, 2) measuring disciplinary outcomes rather than the occurrence of violent incidents, and 3) requiring thresholds to be met for two to three consecutive years before identifying a school as PDS.

According to the Bureau of Justice and the National Center for Education Statistics (NCES),[2] during the 1999–2000 school year, 2 percent of public schools (1,600) accounted for about 50 percent of serious violent incidents, and 7 percent of public schools (5,400) accounted for 75 percent of serious violent incidents. The "persistently dangerous" label exists to identify such institutions; however, less than 50 of the nation's 94,000 public schools have been identified as PDS each year. Following the close of the 2006-07 school year, only 46 schools nationwide were identified as PDS. In view of the low number of schools being identified, as compared to the statistics on school violence noted above, we suggest that legislative changes be made to ensure that the intent of the USCO provision is met.

[1] An index of our findings is provided in the Attachment.
[2] National Center for Education Statistics, Bureau of Justice Statistics, "Indicators of School Crime and Safety: 2004", NCES 2005-0002.

We suggest that the Department and Congress, in considering legislative changes, require states to ensure that their USCO policies meet the following basic requirements:

1) All violent incidents, according to state code, are factored into the PDS determination, without the use of disciplinary action qualifiers;
2) Benchmarks for determining PDS are set at reasonable levels that are supported by objective and reliable data[3]; and
3) PDS are identified based upon the most current year of data.

These suggestions are intended to affect immediate improvement of the USCO in its current state. However, based on our audit work and further research, there is an apparent reluctance to fully comply with the USCO provision. Therefore, we are also offering our perspective on more in-depth changes to the provision that should help USCO to be better received by the education community, and therefore, encourage more willing compliance. The lack of incentive to comply with USCO will need to be addressed and resolved in order for the provision to realize its full potential as a tool for improving the level of safety in our nation's schools.

[3] The Department's *Unsafe School Choice Option Non-Regulatory Guidance* discusses the use of objective and reliable data to determine PDS in Section B-4.

PURPOSE AND SCOPE

The reauthorization of ESEA provides Congress with an opportunity to amend the USCO provision to ensure the intent of the law is met. Based on the experience the OIG gained through our audits, we have prepared this paper to inform Department officials and Congress of 1) common trends that prevent states from effectively identifying PDS, and 2) concerns about an apparent lack of incentive to comply with the USCO provision. Suggestions for corrective action regarding states' ineffective policy criteria are intended to improve the USCO provision in its current form. These are changes that can be immediately implemented to improve the identification of dangerous schools. Additionally, we discuss more in depth changes that should help the acceptability and effectiveness of the provision. Lastly, we note suggestions on possible changes to the USCO provision provided by the education community. Consideration of these issues and suggestions may enable the Department and Congress to arrive at a revised USCO provision that encourages more willing compliance from the education community.

BACKGROUND

The USCO provision (*section 9532 of the Elementary and Secondary Education Act of 1965, as amended by the No Child Left Behind Act of 2001*) requires that, "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 school or secondary school within the local educational agency, including a public charter school." Transfers are to be offered to affected students at least 14 days before the start of the new school year.

The Department's *Unsafe School Choice Option Draft Non-Regulatory Guidance*, issued in draft form in July 2002, provided a suggested framework for developing and implementing an USCO policy (final guidance was issued in May 2004). Full compliance with USCO was expected as of July 1, 2003. States must certify compliance with USCO to the Department each year as a condition of eligibility for ESEA funds. States were required to make the initial determination of PDS in July 2003. USCO results to date are as follows:

School Year	States that Identified PDS	Number of PDS
2002-03	New Jersey	7
	New York	2
	Oregon	1
	Pennsylvania	28
	Puerto Rico	9
	Total	**47**
2003-04	New Jersey	10
	Pennsylvania	14
	South Dakota	2
	Puerto Rico	15
	Total	**41**
2004-05	Georgia	2
	New Jersey	4
	New York	5
	Pennsylvania	9
	Puerto Rico	8
	Total	**28**
2005-06	Maryland	6
	New Jersey	2
	New York	17
	Pennsylvania	9
	South Dakota	1
	Texas	2
	Total	**37**
2006-07	Maryland	**6**
	New Jersey	**4**
	New York	**17**
	Oregon	**1**
	Pennsylvania	**9**
	Puerto Rico	**4**
	South Dakota	**1**
	Texas	**4**
	Total	**46**

We performed audits in five states[4] to review USCO policy development and implementation, and to assess state and local compliance during school years 2002-03 and 2003-04. In four of five of the states (California, Iowa, Georgia, and Texas) included in our review, we questioned whether benchmarks set for determining PDS were

[4] States audited were California, Iowa, Georgia, New Jersey, and Texas.

effective (see Attachment for an index of our findings in all five states). These states had identified no PDS in the two years we reviewed.

We addressed our concern that PDS were not being effectively identified in *State and Local Alert Memorandum 06-02*, issued on February 9, 2006, to the Deputy Under Secretary, Office of Safe and Drug Free Schools (OSDFS). We suggested that OSDFS take steps to ensure that state USCO policies are effective for the purpose of identifying PDS and ensuring victims of violent crimes are provided the option to transfer to a safe school. Specifically, we suggested that OSDFS:

1) require states to factor all violent criminal offenses into the PDS determination, without requiring the offense to be qualified by disciplinary action;
2) ensure that states' annual certification of USCO compliance is based upon verification from districts that documentation is available to support that incidents have been reported in accordance with the state's policy; and
3) confirm that districts have implemented policies and procedures to ensure that the transfer option is offered to victims of violent crimes.

In response to our memo, OSDFS stated it concurred with our findings and shared our concerns; however, there was no express statutory or regulatory requirement to support the implementation of our suggestions. We suggested that OSDFS take a more strict interpretation of the USCO provision, based on a reasonable expectation that states' policies meet the intent of the law. We also suggested that OSDFS prepare a proposal to Congress detailing any legislative changes needed to help ensure the intent of the USCO provision is met.

In October 2006, the Secretary's Safe and Drug-Free Schools and Communities Advisory Committee (Advisory Committee) convened a hearing for the purpose of gaining input from the education community on three major topics relating to safe schools[5], including possible changes to improve the USCO provision. Representatives from the education community voiced their concerns regarding the USCO provision and provided suggestions for possible improvement. The Advisory Committee was established for the purpose of making recommendations to the Secretary on possible legislative changes that might improve the acceptability and effectiveness of the USCO provision.

ISSUE 1 – STATES' POLICIES DO NOT EFFECTIVELY IDENTIFY PDS

Nationwide USCO results to date indicate that states are not effectively identifying PDS. Bureau of Justice statistics show that school violence is more prevalent than USCO results indicate. According to the Bureau of Justice statistics, violent crimes[6] occurred at

[5] The three major topics included the Safe and Drug-Free Schools and Communities Act State Grants Program, the USCO provision, and the Requirements for Data under NCLB.
[6] Violent crimes are defined by each state. Examples include homicide, assault, battery, sex offenses, robbery, and weapons offenses.

the rate of 28 per 1000 students in 2003. This data also showed that students ages 12 to 18 were victims of about 740,000 violent crimes. Furthermore, the data indicated that inner-city schools have a higher rate of violence than suburban schools. However, most major cities nationwide have identified no schools as being PDS.

In four of the five states we reviewed, we noted that the states' policies were not effective for the purpose of identifying PDS. We found that states with ineffective criteria for determining PDS did not follow Departmental non-regulatory guidance for policy development as it pertains to setting the criteria for determining PDS. Common trends that are not consistent with Departmental guidance include 1) common violent offenses being excluded from the PDS determination, 2) measuring disciplinary outcomes rather than the occurrence of violent incidents, and 3) requiring thresholds to be met for two to three consecutive years before identifying a school as PDS.

Although not mandatory, Departmental guidance stipulates that identifying violent crimes is a necessary step in complying with USCO. In determining the criteria for identifying PDS, a state education agency (SEA) should use objective criteria. As stated in the guidance, such objective criteria should include the rates of violent offenses, as defined by the State. Therefore, the SEA must identify and define the violent offenses. Most states consider only the most violent offenses in their criteria for determining PDS, excluding more common offenses such as simple assault or bullying. Bureau of Justice data showed that in 2003, nine percent of students reported that they were threatened or injured and seven percent reported that they had been bullied in the last six months. These lesser, but more common offenses, have a much greater impact on the school environment and students' feeling of safety due the frequency at which they occur. The guidance also states, "Each State's law determines the specific crimes that constitute violent criminal offenses. Each SEA should consult appropriate State attorneys and law enforcement officers in developing a comprehensive list of offenses that the State considers to be violent criminal offenses." The identification of these violent offenses should also be used to determine when a student has been the victim of a violent crime and must be offered a transfer to a safe school.

Departmental guidance also advises states to measure the incidents that occurred rather than the disciplinary outcome of those incidents. Some violent offenses are excluded from state PDS determinations because some states measure disciplinary action (rates of expulsion or long-term suspension), rather than the actual occurrence of the offense. Therefore, if the incident did not result in a long-term suspension or expulsion, it would not be factored into the PDS determination. Our audit work revealed that long-term suspensions or expulsions were often avoided in favor of other corrective action, including transferring the offender to an alternative program. Furthermore, it is evident that this PDS benchmark can not reasonably be met.

To complicate matters further, over 50 percent of the state policies nationwide require the benchmarks established to be met in each of three consecutive years for a school to be designated as persistently dangerous. Departmental guidance encourages states to determine PDS based on the most current year's data. Fewer than ten states followed the

federal guidance to consider crimes over a one-year period. The following are examples of this issue and their effects:

- South Carolina requires **two** of the **seven** following situations to be met **for three consecutive years** for a school to be determined as PDS: at least one murder, one rape, one kidnapping incident; or at least one percent of the student population is represented by the number of incidents in either aggravated assault, robbery, drug distribution, or weapons offenses. Therefore, if the threshold for aggravated assault is met, the threshold for another type of crime must also be reached, or the school would not meet the criteria for PDS for that school year. Simple assaults may occur at any rate with no effect on the PDS determination. In one district, 222 simple assaults occurred in 2001. In 2002, 595 criminal incidents were reported in this district. Another district reported 271 simple assaults in the 2001-02 school year. In a third district, 13 aggravated assaults occurred during the 2003-04 school year and another 13 aggravated assaults were reported from September to November of the 2004-05 school year. None of the schools in these districts were identified as PDS. No South Carolina schools have met the state's criteria for PDS to date.

- California requires at least one gun-free schools violation in addition to one percent of the student population being expelled in a year for three consecutive years before identifying a school as PDS. During the 2000-01 school year, California schools reported 32,869 offenses that fell into the category of "crimes against persons." Of those, 27,682 were for battery,[7] an offense that is excluded from the state's determination of PDS. Overall, crimes against persons accounted for 35 percent of the crimes reported. Battery was the most common crime reported: 29 percent of all reported incidents were batteries. One high school in Los Angeles had 289 cases of battery, two assaults with a deadly weapon, a robbery and three sex offenses in one school year, but still did not meet the state's criteria for PDS. None of California's approximately 9,000 schools have been identified as PDS to date.

- Texas requires three or more mandatory expulsions in each year for three consecutive years for a school to be considered PDS.[8] In Houston schools, 761 assaults were reported to the Texas Education Agency over four years. In contrast, district police recorded 3,091 assaults that occurred in Houston schools over the same period. No schools in Houston have been identified as PDS. In 2001-02, Texas public school students committed 678,600 punishable offenses and 7,460 students were expelled. Texas, a state with

7 Battery involves actual physical contact. Assault, in contrast, recognizes the threat to cause harm. California's USCO policy considers battery against school personnel or sexual battery in its PDS determination.

[8] Texas has revised its PDS criteria for the 2007-08 school year, however, it still requires that the benchmarks be met for three consecutive years.

7,734 campuses and 4.3 million students, identified no PDS in 2003, 2004, or 2005. Two schools were identified in 2006, and four were identified in 2007.

- Georgia's definition of PDS requires at least one aggravated violent offense, qualified through an official school tribunal or at least two percent of the student population to be found guilty of other offenses (which include non-felony drugs, felony drugs, felony weapons, and terroristic threats) in each of three consecutive years. Simple assault is excluded from the lesser offenses factored into the determination. From January through April of the 2004-05 school year, police arrested 12 students on charges ranging from arson to simple assault and aggravated battery. However, the school would have needed at least one more incident, qualified by a school tribunal, to be declared PDS in 2006. Police reported that 295 violent incidents resulting in arrest occurred at schools in this district from January 2000 to December 2004; however, no schools met the state's criteria for PDS. Two schools were identified as PDS in 2005.

- Ohio requires two percent of the student population to have been the victim of a violent crime in each year for two consecutive years. The perpetrator would need to be found guilty for the incident to be included in the determination of PDS. According to the *Plain Dealer* newspaper, a computer-assisted analysis of reports of trouble in the schools from 2002 through 2005 revealed that one district is home to eight of the state's most dangerous schools. At least one assault, fight, or injury was reported for every 27 students in these eight schools, making them about twice as dangerous on average as other schools, however, none met the state's criteria for PDS. Under Ohio's USCO policy, a school with 1,000 students could experience four homicides and seize a weapon from students on 19 occasions each year without qualifying as persistently dangerous. No Ohio schools have been identified as PDS.

- In Colorado, the number of violent incidents is compared to the student population to determine PDS. Set thresholds, per population range, must be met in each of two consecutive years for a school to be determined PDS. A school with over 1,200 students must have more than 225 violent incidents in each of two consecutive years to be designated as a PDS. An average school year is 180 days, therefore, a Colorado school would need more than one violent incident per day to occur for two straight years to be determined PDS. The expectation that this benchmark would be met is not reasonable. No Colorado schools have been identified as PDS.

- The District of Columbia Office of the Inspector General reported that during the 2003-04 school year, there were more than 1,700 "serious security incidents" in city schools, including 464 weapons offenses. No District of Columbia schools have been identified as PDS.

- In Maryland, a policy that determined PDS based on one year of incident data was discarded because it would have identified 36 schools. An SEA official stated, "We're not a big state, and 36 would be a huge number." Instead, Maryland requires schools to meet the criteria for PDS for three consecutive years. No schools were identified as PDS in 2005. Six schools were identified in 2006 and in 2007.

Bureau of Justice data on school violence indicates that school violence is more prevalent than USCO results indicate. Data on school violence shows that most violence is concentrated in a few schools. According to the NCES, during 1999-2000, seven percent (5,400 schools) of public schools accounted for 75 percent of serious violent incidents. However, less than 50 of the nation's 94,000 public schools have been identified as PDS each year. In order to meet the intent of the provision, states' policies need to effectively identify the schools that are in fact dangerous, and provide students a safe alternative.

We suggest that the Department and Congress, in considering legislative changes, require states to ensure that their USCO policies meet the following basic requirements:

1) All violent incidents, in line with state code, are factored into the PDS determination, without the use of disciplinary action qualifiers.

2) Benchmarks for determining PDS are set at reasonable levels that are supported by objective and reliable data.[9]

3) PDS are identified based upon the most current year of data.

ISSUE 2 – THE USCO PROVISION LACKS INCENTIVE TO COMPLY

USCO has been criticized as counter-productive since its enactment due to the stigmatizing effect of the PDS label, which creates a lack of incentive to comply with the provision. States fear the political, social, and economic consequences of having schools designated as PDS, and school administrators view the label as detrimental to their careers. Consequently, states set unreasonable definitions for PDS and schools have underreported violent incidents. These concerns were noted during a 2003 Congressional hearing on the implementation of USCO,[10] following states' initial determination of PDS when only 47 schools were identified nationwide. Almost four years later, the same concerns remain, as noted during the Secretary's Safe and Drug-Free Schools and Communities Advisory Committee (Advisory Committee) hearing (see Other Matters). Fewer schools have been identified as PDS each year. Less than 50 of the nation's schools were identified following the close of the 2006-07 school year.

[9] The Department's *Unsafe School Choice Option Non-Regulatory Guidance* discusses the use of objective and reliable data to determine PDS in Section B-4.
[10] The field hearing before the Subcommittee on Education Reform convened on September 29, 2003, in Denver, Colorado. Transcript is available at http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=108_house_hearings&docid=f:90143.pdf.

Although the USCO provision was well intended, it is clear that it has not advanced the national effort to ensure students a safe school environment. Federal and state audits have revealed there are many ways to circumvent the intent of USCO, including ineffective criteria for determining PDS, underreporting violent incidents, and overturning PDS determinations by retroactively downgrading reported incidents.[11] We also found that schools that are determined to be PDS, or put on a watch list (meaning they are on the verge of being identified as PDS), tend to show dramatic decreases in violent incidents the following year.

Setting minimum policy requirements, as suggested under Issue 1, should provide for more effective identification of PDS. However, it would be difficult to address all of the ways that allow the intent of USCO to be circumvented. Since USCO requires self-reporting, incentive to comply is crucial to its successful administration. Therefore, changes to the USCO that would make the provision more supportive should be considered, in order to provide the incentive needed for state and school officials to comply.

In four of the five states audited, we noted that the states' criteria for identifying PDS were not effective. Further research revealed that most states had developed criteria that were unlikely to be met. As a result, we concluded that a federally mandated list of violent offenses may be useful to achieve some degree of consistency in the identification of PDS nationwide. The Department of Justice recognizes murder, rape, sexual assault, robbery, aggravated assault, and simple assault as violent offenses. This could provide a reasonable baseline of offenses to be considered, as all of these offenses should be included in each state's code. The non-regulatory guidance advises states to consider all violent crimes according to state code. Having a baseline of offenses to be considered would also lend some credibility to the provision, as one of the major criticisms is the total discretion states have to set the criteria for determining PDS. Flexibility in the policy criteria can still be maintained by allowing states to consider their own state code and needs that are unique to their state or communities.

For the intent of USCO to be met, and due to the apparent reluctance to identify PDS, it may be more productive to replace the requirement for states to identify PDS with a requirement that states provide parents the information needed to decide if a school is safe enough for their child to attend. This would eliminate the issue of the stigmatizing PDS label, alleviate the pressure on states to develop a reasonable definition for PDS, and allow school and district administrators to be less apprehensive about reporting honestly.

We encourage the Department and Congress to consider these options, as well as input provided by the education community (see Other Matters). Ideally, revisions to the USCO will make the provision more proactive and supportive, providing state and school officials more incentive to comply.

[11] Overturning of PDS determinations was noted in federal and state audit results in New Jersey and New York (NJ report can be located at http://www.ed.gov/about/offices/list/oig/auditreports/a03e0008.pdf and NY report at http://nysosc3.osc.state.ny.us/nsaa/states/New_York/093006/05s38.pdf).

OTHER MATTERS

The ESEA, as amended by the NCLB Act of 2001, mandated the establishment of the Advisory Committee to consult with the Secretary of Education and with interested State and local coordinators of school- and community-based substance abuse and violence prevention programs and other interested groups. The Advisory Committee convened a hearing in October 2006[12] to gain input from the education community on the Safe and Drug-Free Schools and Communities Act State Grants Program, NCLB data requirements, and on what legislative changes might be needed to improve the USCO provision. Preliminary recommendations made by the Advisory Committee are consistent with our suggestions, including eliminating the stigmatizing effect of the PDS label, and making school safety data available to parents to evaluate based upon their own judgment. We suggest the Department and Congress consider the recommendations made by the Advisory Committee, in order to arrive at a USCO provision that will effectively provide students the safe school environment that the law intends.

Attachment

Addendum

[12] The Advisory Committee's second preliminary report, dated December 8, 2006, is available at http://www.ed.gov/about/bdscomm/list/sdfscac/schoolrpt1.html.

Attachment

Summary of Audits and Findings by State

California Department of Education's (CDE) Compliance with the Unsafe School Choice Option (USCO) Provision Audit Control Number (ACN) A09E0025

Finding No. 1 – Local Educational Agencies (LEAs) Did Not Report All USCO Incidents to CDE
Our review of selected schools' expulsion files for school years 2002-2003 and 2003-2004 found that the four LEAs reviewed did not accurately report USCO incidents that occurred at the schools.

Finding No. 2 – LEAs Interpreted "Serious Physical Injury" Differently When Evaluating Incidents
California's USCO policy includes causing serious physical injury to another person, except in self-defense, as a reportable violent offense. We found that the four districts we reviewed used different factors to assess whether an incident should be identified as "causing serious physical injury." None of the four districts had written guidance for assessing the seriousness of a physical injury.

Finding No. 3 – LEAs Have Not Adequately Implemented the USCO Transfer Option
One LEA's policies did not address the USCO victims of violent crime transfer option and LEAs did not have documentation to demonstrate compliance with the transfer option.

Georgia Department of Education's (GDOE) Compliance with the Unsafe School Choice Option Provision ACN A04E0007

Finding No. 1 – LEAs Did Not Report All Student Criminal Offenses For GDOE To Consider In Determining Persistently Dangerous Schools
The figures reported to the GDOE by the three LEAs we reviewed did not include all offenses based upon the GDOE's USCO policy. As a result, GDOE did not have sufficient information to ensure that it identified unsafe schools and appropriately made PDS designations. In addition, LEAs had different interpretations of GDOE's USCO policy.

Finding No. 2 – LEAs Did Not Offer the USCO Transfer Option
None of the LEAs reviewed formally offered victims of violent crime the right to transfer to another school as required by USCO. Nor had any of the LEAs implemented a formal mechanism offering the right to transfer.

Iowa Department of Education's (IDE) Compliance with the Unsafe School Choice Option Provision ACN A07E0027

Finding No. 1 – LEAs Did Not Report All USCO Incidents Resulting in 10-Day Suspensions or Expulsions
Two of the three LEAs reviewed did not report all of the USCO incidents that resulted in 10-day suspensions.

Finding No. 2 – LEAs Did Not Offer the USCO Transfer Option
None of the three LEAs reviewed offered victims of violent crime the option to transfer to a safe public school. In addition, the LEAs might not have accurately reported the number of victims transferring due to violence.

Attachment

New Jersey Department of Education's (NJDOE) Compliance with the Unsafe School Choice Option Provision
ACN A03E0008

Finding No. 1 – NJDOE May Not Have Identified Some Schools that Met the Persistently Dangerous Schools Criteria
Our review of the original data file used to make the 2003 PDS determinations revealed that 13 regular education schools initially met the criteria for PDS, however, only 7 schools were publicly identified as PDS. We found that the documentation submitted by three schools was inadequate to support the requested adjustments to incident data that were approved by NJDOE.

Finding No. 2 – Inaccurate, Incomplete, and Inconsistent Reporting of Incidents of Violence by the School Districts
Our review of four school districts revealed that the interpretation of the criteria for reporting incidents of violence and the level of compliance with reporting requirements varied significantly at each school district we visited, despite long-standing reporting requirements, and incident definitions and scenarios being included in the state's incident reporting system User Manual.

Finding No. 3 – Special Schools Were Not Identified As Persistently Dangerous
Six special schools determined to have met the criteria for PDS were not identified. Special services schools (Regional Day Schools, Educational Services Commissions, and Special Services School Districts) were established by statute to provide special education programs for disabled students throughout the state, and to educate students who cannot be provided with a free and appropriate education in a less restrictive setting. NJDOE's USCO policy specifically excludes special schools determined to have met the state's criteria for persistently dangerous from being identified. We concluded that the special schools should be identified as PDS if they meet the PDS criteria.

Texas Department of Education's (TEA) Compliance with the Unsafe School Choice Option Provision
ACN A06-E0028

Finding No. 1 – TEA and LEAs Inadequately Implemented the USCO Transfer Option
TEA provided inadequate guidance to LEAs regarding the USCO victim transfer option, which resulted in LEAs not implementing the victim transfer option. None of the LEAs that we reviewed had established procedures to formally offer victims of violent crime the right to transfer to another school as required by USCO.

Finding No. 2 – TEA Did Not Establish Procedures to Report Violent Criminal Offenses Committed By Unknown Perpetrators
TEA did not establish procedures for LEAs to report disciplinary incidents that are committed by an unknown perpetrator including the violent criminal offenses that are considered USCO incidents.

Finding No. 3 – LEAs Did Not Report All USCO Incidents and Incorrectly Reported Incidents to TEA
USCO incidents that occurred in school year 2002-2003 at the three LEAs we visited were not reported or were incorrectly reported. Our review of disciplinary files for school year 2002-2003 found that the three LEAs did not always select the appropriate discipline code when reporting an incident to TEA or failed to report the incident at all.

Finding No. 4 – LEAs' Inadequate Documentation of Drug Incidents Made It Impossible to Determine if All USCO Drug Incidents Were Reported
USCO drug incidents were not correctly reported and numerous other potential USCO drug incidents were inadequately documented.