



UNITED STATES DEPARTMENT OF EDUCATION  
WASHINGTON, D.C. 20202

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Dear Chief State School Officer:

Parents should never worry about their child's safety at school. The Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, (ESEA), includes multiple provisions intended to keep students safe at school, including a provision requiring States to have policies that provide school choice in certain circumstances. The U.S. Department of Education (Department) is pleased to provide information regarding this provision under Title VIII of the ESEA. In this letter, we review the requirements in ESEA section 8532: Unsafe School Choice Option and encourage States to build on the work they have done in response to this provision to maximize parent options for choosing the safest school setting for their children.

**ESEA Section 8532: Unsafe School Choice Option**

All children deserve to attend a safe school in which they can focus on mastering the literacy, mathematics, and other skills necessary for success in school and beyond. Section 8532 of the ESEA requires States to provide options for parents of students in public elementary or secondary schools under two circumstances related to school violence and student safety. A local educational agency (LEA) within a State receiving ESEA funds must provide a school choice option for students who:

- (1) Attend a public elementary or secondary school that the State has determined to be unsafe (i.e., to be persistently dangerous) based on State-determined criteria established in consultation with a representative sample of LEAs; or
- (2) Become 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.

This provision requires that each State establish and implement a statewide policy requiring that a student in either of these circumstances be allowed to attend a safe public elementary school or secondary school within the LEA, including a public charter school. States can also leverage current or establish new open enrollment policies for students in schools identified as persistently dangerous. As a general matter, States with full open enrollment policies that have established protocols for defining and identifying persistently dangerous schools and have clear communications to alert parents whose children attend unsafe schools or have been the victim of a violent criminal offense, would fulfill ESEA's statutory requirements. The Education Commission of the States provides the status of State [open enrollment policies](#) as of March 2022, including policies that allow for students to transfer to schools both within their resident LEA and to other nonresident LEAs.

Each State must establish its own definition of persistently dangerous schools. This definition can include any factors that the State finds constitute an unsafe environment. Such definitions could include whether there have been incidents or fear of physical harm, whether weapons have been seized on campus, whether the school has an intimidating or threatening environment, or any other conditions or outcomes that the State finds make a school persistently dangerous. For instance, a State might find that persistently poor academic performance makes a school unsafe for students. Or, a State might review, on an annual basis, school discipline data, police referral and 911 calls, and set a percentile threshold to designate five, 10, or 15 percent of their schools as persistently

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dangerous and provide effective notice to all parents in those schools. They could also determine that a school without a school resource officer (SRO) is persistently unsafe. States that have made this determination must then provide the required choice option for students in these schools, as well as the required choice option for students who have been victims of a violent criminal offense while in or on the grounds of a public elementary school or secondary school that the student attends.

Regardless of how a State defines persistently dangerous schools, they should ensure that they have clear and robust communication protocols to ensure that parents know if their child's school has been identified as persistently dangerous and understand the school choice options available to them.

States report to the Department annually which schools they have identified as persistently dangerous. For the 2023-2024 school year, five States reported identifying persistently dangerous schools, with one State accounting for 15 of the 25 persistently dangerous schools reported nationwide. In earlier years, States have reported even lower number of persistently dangerous schools. For example, in the 2022-2023 school year, four schools were reported as persistently dangerous nationwide; in the 2021-2022 school year, no schools were reported as persistently dangerous.

The number of persistently dangerous schools reported nationwide appears low particularly given the number of violent offenses in schools reported through the Department's Civil Rights Data Collection (CRDC). For example, not a single school was designated as persistently dangerous in the 2021-2022 school year, while public school districts reported through the CRDC approximately 1.2 million violent offenses<sup>1</sup> in that same school year (with physical attack without a weapon and threats of physical attack without a weapon accounting for 93% of these offenses).<sup>2</sup>

Given the small numbers of schools identified as persistently dangerous, the Department encourages each State to review its definition to consider whether it is appropriately identifying persistently dangerous schools. When setting and implementing State guidelines to comply with Section 8532, State leaders should:

- Consider reducing the period of time before a school is determined to be persistently dangerous.

While many States have defined "persistently dangerous" schools as schools that meet State-established criteria over a period of two to three years, a State could define persistently dangerous schools based on the number of incidents over a shorter period, specifically one school year. Students should not be subjected to violent offenses and activities over multiple years before a transfer option is made available.

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<sup>1</sup> Violent offences include the following: physical attack both with and without a weapon, threats of physical attack both with and without a weapon, robbery both with and without a weapon, sexual assault, and possession of a firearm or explosive device.

<sup>2</sup> U.S. Department of Education, Office for Civil Rights, 2021-22 Civil Rights Data Collection, released January 2025, available at <https://www.ed.gov/media/document/2021-22-crdc-first-look-report-109194.pdf>.

- Review data and information related to violent incidents as opposed to responses to violent incidents.

Frequently used indicators that a school is persistently dangerous include the number of weapons seized, the number of assaults reported by students, and the number of homicides. States should work with local law enforcement officials, including school resource officers, to identify other sources of data and information that can be used to accurately assess whether a school is persistently dangerous. Many current State definitions use suspension and expulsion data, which measure disciplinary responses to an incident. We urge States to use data that relate to incidents (numbers of offenses) even when an offender is not apprehended and subsequently disciplined. States should also ensure that using referral metrics in their definition will not incentivize schools from underreporting incidents or ensuring student discipline is upheld.

While we recognize that many States were initially limited by the data they were already collecting and had available for consideration, it is possible to utilize data from other sources, including referrals to the juvenile courts and reports by law enforcement personnel, including school resource officers.

- Regularly review and revise the State’s definition of a persistently dangerous school.

States should annually review and consider whether it is necessary to revise their definition of a persistently dangerous school. The ESEA requires that such a review take place in conjunction with a representative sample of LEAs. The Department strongly encourages the State to also include input from parents and other community members.

- Regularly review and revise the processes and procedures for collecting school safety data from LEAs.

Some States and State law enforcement agencies already have a well-established process for collecting a variety of information about school safety issues. These States may integrate the unsafe school choice option in ESEA section 8532 into that existing system. Other States may need to develop and implement a system to permit their LEAs to collect the objective data necessary to identify persistently dangerous schools in their States.

States are encouraged to identify existing data collection requirements and, if appropriate, use the data collected to meet those requirements in order to minimize burden associated with the annual unsafe school identification process.

In order to ensure that the data used to implement the unsafe school choice option in ESEA section 8532 are of high quality, current, and, to the extent possible, comparable across LEAs in the State, the States should ensure that LEAs receive appropriate training and technical assistance pertaining to collecting those data.

- Consider providing multiple school choice options.

Provide families affected by attending a persistently dangerous school several school choice options to prevent students from becoming the victim of a violent criminal offense. States can consider permitting or encouraging open enrollment (both within and across districts), opening or expanding magnet schools so there is sufficient supply for students in persistently unsafe schools, ensuring that public charter schools are available to families, etc.

To maximize the school choice options available to parents, in the case of a persistently dangerous school or for victims of a violent criminal offense while in or on the grounds of a public elementary school or secondary school, the Department encourages States to facilitate agreements across LEAs, so that parents may select a neighboring LEA or a charter school that is its own LEA.

The Trump Administration is committed to ensuring parents have options for their children to attend a safe school where they can learn and thrive, which is a goal we all share. The unsafe school choice option in ESEA section 8532 discussed here is one provision that can help support our work to reach this goal.

Parent outreach is crucial for using the unsafe school choice option. States and LEAs should work together to notify parents of their school's persistently dangerous status and what options are available as a result.

We also strongly encourage States to work with LEAs with persistently dangerous schools to improve school safety records and the learning experience they deliver to students. [SchoolSafety.gov](http://SchoolSafety.gov) and the Federal School Safety Commission Report has a rich collection of resources to support student safety at school.

Thank you for your continued focus on ensuring student safety at school and providing meaningful options for parents to ensure all children receive a high-quality education in a safe environment.

Sincerely,



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