

NORTH DAKOTA DEPARTMENT OF PUBLIC INSTRUCTION
ESSA STATE PLAN - PERSISTENTLY DANGEROUS SCHOOLS
Effective Date: 2017-2018 School Year

Like its predecessor No Child Left Behind, the Every Student Succeeds Act (ESSA) requires each State to establish and implement a statewide policy and criteria for students attending a persistently dangerous public elementary or secondary school. Secondly, ESSA requires each State to establish and implement a statewide policy requiring that students who become victims of a violent criminal offense while in or on the grounds of a public school that they attend, be allowed to attend a safe public school within the district, and if necessary, be allowed to transfer to a contiguous district. [Unsafe School Choice Option (USCO: Title VIII, Part F, Subpart 2, Sec. 8532, Sec. 9532)]

The North Dakota Department of Public Instruction (NDDPI) defined persistently dangerous schools and criteria for identification and guidance for student victims of criminal offenses with the expertise of statewide school administrators and partners as required by law in September 2017. Compliance with the policy is a condition of receiving funds under any and all titles under ESSA. The State Superintendent is required to certify compliance with this USCO policy in the ESSA application for funds.

PROVISION I: Identification of Persistently Dangerous Schools

The US Department of Education requires annual reports from NDDPI regarding the number of schools determined to have met the State's definition of persistently dangerous. The NDDPI uses the Suspension, Expulsion and Truancy (SET) report submitted by each school building every June to make that determination.

The identification of a persistently dangerous public elementary or secondary school in the context of ESSA includes any ND school building if the following conditions exist:

- (1) in each of three (3) consecutive years, the school has a federal or State gun-free school violation or a violent criminal offense (murder/manslaughter, kidnapping, aggravated assault, robbery, gross sexual imposition/rape) committed on school property; **and**,
- (2) in any **two** years within the **three**-year period, the school has experienced expulsions for weapons or violence that exceed 1 % of the building's student population, or 5 students, whichever is greater.

Providing a Safe Public School Choice

The NDDPI must identify any public school building as persistently dangerous and notify the district superintendent and building principal by June 1. The public school building identified as persistently dangerous must:

- a) notify parents of each student attending the school that the school has met the threshold definition as persistently dangerous within 45 days from the time the district superintendent and building principal are notified by NDDPI;
- b) offer all students the opportunity to transfer to a safe public school within the district within 14 days. Students are not required to accept the transfer option, but they must be afforded the opportunity to do so. Parental notice regarding the status of the schools and the offer to transfer

students should be made simultaneously. If there is no other school in the district, the district is encouraged, but not required, to explore other options such as an agreement with a contiguous district to transfer students. The district should allow students to transfer to a school not identified as being in need of school improvement, or significant corrective action, especially in regard to school safety and culture. Transfers may be temporary or permanent, but must be in effect as long as the original school is identified as persistently dangerous; and,

- c) develop a corrective action plan and submit to NDDPI for review and approval by August 1 of the same year, which will apply to the respective school year. The corrective action plan will describe how the school will reduce violent incidents. School buildings no longer designated as persistently dangerous will be notified on or before June 1 of the respective year. The persistently dangerous status designation will be removed after one or more years contingent upon successful fulfillment of the criteria for removal, as determined by evidence of progress toward successful completion of the approved corrective action plan and evidence of incidents that no longer meet the criteria described above. The NDDPI will provide guidance for any corrective action plan implementation and evaluation.

Transportation will be provided only up to the limit of funds provided by the federal government for transportation. The USCO statute does not authorize fiscal resources to cover costs associated with transferring a student from a persistently dangerous school. However, under certain circumstances, Title IV, Part A funds may be applicable in consultation with NDDPI.

PROVISION II: Student Victims of Violent Criminal Offenses

The individual victim provision of the Unsafe School Choice Option policy attempts to fulfill the requirement for districts to provide relief to students who have been victimized. For the purpose of this definition, a "violent criminal offense" shall include murder/manslaughter, kidnapping, aggravated assault, robbery or gross sexual imposition/rape.

“... a student who becomes a victim of a violent criminal offense, as determined by State law and within the State determined categories, while in or on the grounds of a public elementary school or secondary school that the student attends, must be allowed to attend a safe public elementary or secondary school within the district.”

Criteria for determining victims of violent criminal offenses

The following criteria must be used to determine when an enrolled student has become a victim of a violent criminal offense while in or on the grounds of a public elementary or secondary school that the student attends:

1. A referral has been made to law enforcement officials for suspicion that one of the violent criminal offenses enumerated below has occurred; and
2. One or more of the following applies:
 - Law enforcement has filed formal charges against the perpetrator(s) for commission of the violent crime; or

- The perpetrator(s) of the violent crime either has not been identified or is not an enrolled student(s), but it is clear that the student (victim) has become a victim of a violent criminal offense based on objective indicators such as physical evidence, eyewitness testimony, and/or circumstantial evidence; or
- The pre-existence of a restraining order against the perpetrator(s) of the violent crime.

The offenses apply whether they occur wholly or in part in or on the school grounds that the student attends. The offenses apply only to acts or attempts that are directed at a person (victim) or a group of specified individuals (victims), rather than acts that indiscriminately affect the entire school population or non-specified individuals or groups.

Procedures and Guidelines

Each district must offer a victim as described above, an opportunity to transfer to a safe public school within the district; however, while the student must be offered the opportunity to transfer, the student may elect to remain at the school. When a transfer school is not available, districts should determine the feasibility for students to transfer to the nearest neighboring district; however, this is not required. Transfers must occur within a timeframe as specified in district policy.

Early Notification & Early Warning Schools - Procedures and Guidelines

Early Notification Schools: when schools meet the criteria after **one** year, the district superintendent will be informed of the types of offenses reported that have led to early notification as informational only.

Early Warning Schools: when schools meet the criteria after **two** of three consecutive years, the district superintendent will be informed of the types of offenses reported that have led to early warning. This warning will require the district develop and submit a school safety plan to NDDPI for review and approval which will apply to the respective school year. The school safety plan will describe how the school will reduce violent incidents. The NDDPI will provide early warning schools guidance and technical assistance. Schools receiving an “early warning” notice are not required to notify parents or provide the transfer option to students.

In both instances, NDDPI will reevaluate the school’s progress towards completing their school safety plan and compare the current year’s incidents of violence, as reported in the SET to the criteria for determining persistently dangerous schools and notify districts of their status of the respective year. Schools that no longer meet the criteria for persistently dangerous schools described above for one school year, the year in which the school safety plan were in effect, will no longer be required to submit a school safety plan.