

SUBJECT: SAFE PUBLIC SCHOOL CHOICE

Any District student who is a victim of a violent criminal offense, as defined in Education Law and Commissioner’s regulations, that occurred on the grounds of the District elementary or secondary school that the student attends, will be allowed to attend a safe public school within the District to the extent required by federal and state law and regulations.

In accordance with the regulations of the Commissioner of Education, a “safe public school” shall mean a “public school that has not been designated by the Commissioner as a persistently dangerous public elementary or secondary school.”

Violent Criminal Offense

The Superintendent will determine if the student has been the victim of a “violent criminal offense.” “Violent criminal offense” means a crime that”

- a. Involves infliction of a serious physical injury upon another as defined in New York State Penal Law Section 10.00 (10); or
- b. A sex offense that involves forcible compulsion; or
- c. Any other offense defined in New York Penal Law Section 10.00 (12) that involves the use or threatened use of a deadly weapon.

Serious Physical Injury

“Serious physical injury,” as defined in Penal Law Section 10.00 (10), means a “physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ.”

Deadly Weapon

“Deadly weapon,” as define in Penal Law Section 10.00 (12), means “any loaded weapon from which is shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, or metal knuckles.”

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SUBJECT: SAFE PUBLIC SCHOOL CHOICE (CONT'D.)

Determination Whether Student is a Victim

Procedures will be established for determination by the Superintendent of whether a student is a victim of a violent criminal offense that occurred on school grounds of the school the student attends. The Superintendent will, prior to making any determination, consult with any law enforcement agency investigating the alleged violent criminal incident and consider any reports or records provided by the agency. However, a criminal conviction is not required prior to the Superintendent's determination that a student has been a victim of a violent criminal offense.

The Superintendent's determination may be appealed to the Board. However, this determination will not preclude any student disciplinary proceeding brought against the alleged victim or perpetrator of the violent criminal offense.

Notice to Parents or Persons in Parental Relation

The District will establish procedures for notification of the parents of, or persons in parental relation to, students who are victims of violent criminal offenses of their right to transfer to a safe public school within the District and procedures for the transfer. This notice shall be, to the extent practicable, provided in the dominant language or mode of communication by the parents or persons in parental relation to, the student. The District will notify the parents of, or persons in parental relation to, the student within twenty-four (24) hours of the determination that the student has been the victim of a violent criminal offense on school grounds.

Written notice will be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of the determination at the last known address or addresses of the parents or persons in parental relation to the student. Where possible, notification will also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents or persons in parental relation.

Designation of Safe Public School

It is the responsibility of the District, based on objective criteria, to designate a safe public school within the District to which students may transfer. Any student who transfers to a safe public school in accordance with the provisions of this policy and applicable law and regulation, will be enrolled in the classes and other activities of the public school to which the student transfers in the same manner as all other students at the public school. The receiving school will be identified by the District and must be at the same grade level as the school from which the student is transferring. To the extent possible the District will

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SUBJECT: SAFE PUBLIC SCHOOL CHOICE (CONT'D.)

Designation of Safe Public School (Cont'd.)

allow transferring students to transfer to a school that is making adequate yearly progress and has not been identified as requiring school improvement, corrective action, or restructuring. The District will provide transportation for any student permitted to transfer to the safe public school within the District designated by the District within the transportation limits established pursuant to Education Law 3635 and 4401(4). Any student who transfers to a safe public school will be permitted to remain in the safe public school until the student has completed the highest grade level in the school transferred to, or for such other period prescribed the U.S. Department of Education, whichever is less.

While the parents or persons in parental relation to the student must be offered the opportunity to transfer their child, they may elect to have the child remain at the school he or she currently attends.

Education Law § 2802(7)
8 NYCRR § 120.5

Adopted 1/14/2003

Revised: 5/28/2019

Reviewed by Superintendent and Assistant Superintendent for Instruction on 1/11/2024 with no recommended changes; BOE reviewed and agreed on 1/23/2024.