

ESSA
UNSAFE SCHOOL CHOICE OPTION
(USCO)

GUIDANCE HANDBOOK

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Methodology for School Identification

The Unsafe School Choice Option (USCO; Section 8532 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015) requires each state receiving funds under ESSA to establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary or secondary school, as determined by the state in consultation with a representative sample of local educational agencies (LEAs), be allowed to attend a safe public elementary or secondary school within the LEA, including a public charter school.

Based on input from stakeholders from across the state, TEA has approved the following methodology for the sole purpose of meeting ESSA Section 8532 requirements.

A campus will be identified as a persistently dangerous school (PDS) and required to implement USCO if it meets the following criteria:

- The campus is coded as a Regular Instructional Campus in AskTED; and
- Campus has reported to PEIMS in the Discipline Action Extension Complex (category code 44425) that the location of the incident occurred on campus or off campus at a school sponsored activity; and
- The campus has fewer than 200 students and has reported to PEIMS in the Discipline Action Extension Complex (category code 44425) two or more selected mandatory expulsion incidents in each of the three most recent consecutive years for which data are available; or
- The campus has 201 or more students and has a number of mandatory expellable incidents per year equal to 1% or more of its enrollment in each of the three most recent consecutive years for which data are available.

LEAs report data in the summer (PEIMS submission 3); therefore, USCO uses the three previous years' data and not the current year's data to make identifications. The enrollment number or student population figure is the summer PEIMS submission attendance figure, a unique count of the students served at the campus in a given year.

TEA uses the attached mandatory expulsion incidents as the basis for identification of PDSs and to create the identified campuses and "watch lists" discussed below. All incidents related to a continuation action from a prior school year are omitted from consideration.

All regular instructional campuses that have at least one of the mandatory expulsion incidents in any of the most recent three years for which data are available will be included in the pool of campuses analyzed. Each incident is counted once, regardless of the number of students involved.

Persistently Dangerous School (PDS) Identification

If a campus meets the incident rates in the definition for the three most recent consecutive years, TEA will identify the campus as a PDS, as required by ESSA. TEA will provide the applicable LEA and campus with specific implementation requirements at that time.

Watch List for Two Years' Incidents

If a campus meets the incident rates in the definition for the two most recent consecutive years, TEA will require the LEA to submit its most recent Multi-Hazard Plan [TEC 37.108(a)]. TEA will also request the LEA's most recently completed School Security Audit Report [TEC 37.108(b)], along with any Corrective Action Plan developed to address any LEA-wide issues or issues identified on the campus because of the audit report.

Watch List for One Year's Incidents

If a campus meets the incident rates in the definition for the most recent year, TEA will notify the campus/LEA by letter of the watch list status. The LEA is not required to submit any documentation to TEA.

Location of Incident Included in Definition

The following table provides the PEIMS/TSDS Behavior/Location Codes (C190) applicable to incident location.

PEIMS/TSDS Behavior/Location Code (C190)	Description of Behavior/Location
01	On campus
03	Off campus, School Sponsored Activity

Mandatory Expellable Incidents Included in Definition

The following table provides the PEIMS/TSDS Action Reason Codes applicable to mandatory expellable incidents.

PEIMS/TSDS Action Reason Code (C165)	Description of Behavior
11	Used, Exhibited, Or Possessed A Firearm TEC §§37.007(a)(1)(A) and 37.007(e) and/or brought a firearm to school – TEC §37.007(e)
12	Used, Exhibited, Or Possessed An Illegal Knife TEC §37.007(a) (1) (B) (Illegal knife blade longer than 5.5 inches)
13	Used, Exhibited, Or Possessed A Club – TEC §37.007(a)(1)(C)

PEIMS/TSDS Action Reason Code (C165)	Description of Behavior
14	Used, Exhibited, Or Possessed A Prohibited Weapon Under Penal Code §46.05 – TEC §37.007(a)(1)(D)
16	Arson – TEC §37.007(a)(2)(B)
17	Murder, Capital Murder, Criminal Attempt To Commit Murder, Or Capital Murder – TEC §37.007(a)(2)(C)
18	Indecency With A Child – TEC §37.007(a)(2)(D)
19	Aggravated Kidnapping – TEC §37.007(a)(2)(E)
29	Aggravated Assault Under Penal Code §22.02 Against a school district employee or volunteer – TEC §37.007(d)
30	Aggravated Assault Under Penal Code §22.02 Against someone other than a school district employee or volunteer – TEC §37.007 (a)(2)(A)
31	Sexual Assault Under Penal Code §22.011 Or Aggravated Sexual Assault Under Penal Code §22.021 Against a school district employee or volunteer – TEC §37.007(d)
32	Sexual Assault Under Penal Code §22.011 Or Aggravated Sexual Assault Under Penal Code §22.021 Against someone other than a school district employee or volunteer – TEC §37.007(a)(2)(A)
36	Felony Controlled Substance Violation – TEC §37.007(a)(3)
37	Felony Alcohol Violation – TEC §37.007(a)(3)
46	Aggravated Robbery – TEC §37.007(a)(2)(F), TEC §37.007(C)-(D) (HB9680)
47	Manslaughter – TEC §37.007(a)(2)(G)
48	Criminally Negligent Homicide – TEC §37.007(a)(2)(H)
49	Engages in Deadly Conduct - TEC §37.007(b)(3)
57	Continuous Sexual Abuse of Young Child or Children Under Penal Code §21.02 Occurring on school property or while attending a school-sponsored or school-related activity on or off school property - TEC §37.007(a)(2)(I)

Victim of a Violent Criminal Offense

In addition to the identification of PDSs, USCO requires that a student who becomes a victim of a violent criminal offense be allowed to attend a safe public elementary or secondary school within the LEA, including a public charter school.

For purposes of determining USCO transfer eligibility, a student is considered a victim of a violent criminal offense if, while on the premises of a school or while attending a school-sponsored or school-related activity on or off school property, he or she becomes a victim of any of the following:

- Attempted murder under Texas Penal Code Sections §19.02, 19.03, and 15.01 (reported under PEIMS 425 Action Reason Code 17)
- Indecency with a child under Texas Penal Code §21.11 (reported under PEIMS 425 Action Reason Code 18)
- Aggravated kidnapping under Texas Penal Code §20.04 (reported under PEIMS 425 Action Reason Code 19)
- Aggravated assault on someone other than a district employee or volunteer under Texas Penal Code §22.02 (reported under PEIMS 425 Action Reason Code 30)
- Sexual assault or aggravated sexual assault against someone other than a district employee or volunteer under Texas Penal Code §22.011 and 22.021 (reported under PEIMS 425 Action Reason Code 32)
- Aggravated robbery – TEC §37.007(a)(2)(F), TEC§37.007(C)-(D) (HB9680) (reported under PEIMS 425 Action Reason Code 46)
- Continuous sexual abuse of young child or children under Texas Penal Code §21.02 occurring on school property or while attending a school-sponsored or school-related activity on or off school property (reported under PEIMS 425 Action Reason Code 57)

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