

Safety

4:170-AP5 Administrative Procedure - Unsafe School Choice Option

Illinois public school districts must comply with the following two statutes: (1) [105 ILCS 5/2-3.134](#) requires ISBE to maintain data and annually publish a list of persistently dangerous schools, and (2) [105 ILCS 5/10-21.3a](#), amended by P.A. 100-1046, requires each school board to adopt a policy governing the transfer of students within the district from a persistently dangerous school to another public school in the district. Board policy 4:170, *Safety*, fulfills this requirement with its section on **Unsafe School Choice Option**.

This procedure implements the policy. It incorporates guidance issued by the U.S. Dept. of Education (DOE), *Unsafe School Choice Option, Non-Regulatory Guidance* (February 2004), available under the Policy Guidance section at www2.ed.gov/programs/dvpgovgrants/legislation.html, when No Child Left Behind (NCLB) was in effect. NCLB was repealed. The law that took its place is called the Every Student Succeeds Act (ESSA), which amended ESEA on December 10, 2015. ESEA, as amended by ESSA, still requires states to implement an unsafe school choice option; however, the DOE has not updated its guidance to be consistent with this new law. This procedure incorporates DOE guidance to the extent that it is consistent with the new law. ESSA implementation guidance is expected as states implement the law.

Unsafe School Choice Option for Students in Persistently Dangerous Schools

Actor	Action
ISBE	Identifies each Illinois school that is a <i>persistently dangerous school</i> as defined in 105 ILCS 5/10-21.3a (b) (attached). As of May 2014, ISBE has not identified a <i>persistently dangerous school</i> .
Building Principal or designee	Within 10 calendar days of identification, or longer time if necessary, notifies by U.S. mail, the parents/guardians of students attending a <i>persistently dangerous school</i> , of that school's status as <i>persistently dangerous</i> .
Superintendent	Keeps the Board informed as appropriate. Determines which, if any, schools will receive students assigned to a <i>persistently dangerous school</i> . The recipient school may be a public charter school. If a recipient school is not available in the District, the Superintendent will explore other appropriate options, e.g., intergovernmental agreements with another district to accept transfer students. The needs and preferences of affected students and parents/guardians will be considered. Develops and implements a corrective action plan.
Building Principal or designee	Within 20 calendar days of identification, or longer time if necessary, informs parents/guardians of the following:

	<ol style="list-style-type: none"> 1. The status of the corrective action plan; and 2. The identities of any available school or public charter school into which students may transfer.
Parents/guardians	As soon as possible after being informed of the unsafe school choice option, confers with the Building Principal concerning whether to exercise the transfer option.
Building Principal or designee	Executes any requested transfers as soon as possible. Transfers will be in effect at least while the original school is identified as <i>persistently dangerous</i> . When determining the transfer length, the Principal considers the student's educational needs as well as other factors affecting the student's ability to succeed if returned to the transferring school.
Superintendent or designee	Upon corrective action plan's completion, requests that ISBE remove the school from the list of <i>persistently dangerous schools</i> .

Unsafe School Choice Option for Any Student Who Is a Victim of a Violent Criminal Offense Occurring on School Grounds During Regular School Hours or During a School-Sponsored Event

Actor	Action
Building Principal or designee	Notifies the Superintendent that a student was a victim of a violent crime, as defined by 725 ILCS 120/3 (attached), occurring on school grounds during regular school hours or during a school-sponsored event.
Superintendent	<p>As soon as possible, determines which, if any, schools are available recipients for a student who was a victim of a violent crime while in school or on school grounds.</p> <p>The recipient school may be a public charter school.</p> <p>If a recipient school is not available in the District, the Superintendent will explore other appropriate options, e.g., an agreement with a neighboring district to accept the student.</p> <p>The needs and preferences of the affected student and his or her parents/guardians shall be considered.</p> <p>Keeps the Board informed as appropriate.</p>
Building Principal or designee	As soon as possible, notifies the student's parents/guardians that the student may transfer to another school, provided another school is available.
Parents/guardians	As soon as possible after being informed of the unsafe school choice option, confers with the Building Principal concerning whether to exercise the transfer option.
Building Principal or designee	Executes any requested transfer as soon as possible. When determining the transfer length, considers the student's educational needs as well as other factors affecting the student's ability to succeed if returned to the transferring school.

Definitions for “Persistently Dangerous School”

[105 ILCS 5/10-21.3a](#), amended by P.A. 100-1046 (current as of June 2021)

§10-21.3a(b). In order to be considered a persistently dangerous school, the school must meet all of the following criteria for 2 consecutive years:

1. Have greater than 3% of the students enrolled in the school expelled for violence-related conduct.
2. Have one or more students expelled for bringing a firearm to school as defined in [18 U.S.C. 921](#).
3. Have at least 3% of students enrolled in the school exercise the individual option to transfer schools pursuant to subsection (c) of this section. [[105 ILCS 5/10-21.3a](#)(c), see the second section of this procedure]

Definitions for “Crime Victim” and “Violent Crime”

[725 ILCS 120/3](#), amended by P.A. 100-961 (current as of June 2021)

§ 3. The terms used in this Act shall have the following meanings:

(a) **“Crime victim”** or **“victim”** means (1) any natural person determined by the prosecutor or the court to have suffered direct physical or psychological harm as a result of a violent crime perpetrated or attempted against that person or direct physical or psychological harm as a result of (i) a violation of Section 11-501 of the Illinois Vehicle Code or similar provision of a local ordinance or (ii) a violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012; (2) in the case of a crime victim who is under 18 years of age or an adult victim who is incompetent or incapacitated, both parents, legal guardians, foster parents, or a single adult representative; (3) in the case of an adult deceased victim, 2 representatives who may be the spouse, parent, child or sibling of the victim, or the representative of the victim’s estate; and (4) an immediate family member of a victim under clause (1) of this paragraph (a) chosen by the victim. In no event shall the defendant or any person who aided and abetted in the commission of the crime be considered a victim, a crime victim, or a representative of the victim.

(c) **“Violent Crime”** means: (1) any felony in which force or threat of force was used against the victim; (2) any offense involving sexual exploitation, sexual conduct, or sexual penetration; (3) a violation of Section 11-20.1, 11-20.1B, 11-20.3, 11-23, or 11-23.5 of the Criminal Code of 1961 or the Criminal Code of 2012; (4) domestic battery or stalking; (5) violation of an order of protection, a civil no contact order, or a stalking no contact order; (6) any misdemeanor which results in death or great bodily harm to the victim; (7) any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death. **“Violent crime”** includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this paragraph, “personal injury” shall include any Type A injury as indicated on the traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor’s office or medical facility. A Type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene.

APPROVED: December 13, 2021

