

**DEPARTMENT OF EDUCATION**  
**OFFICE OF THE SECRETARY**  
**600 School Climate and Discipline**

**608 Unsafe School Choice Option Policy**

**1.0 Purpose**

The Elementary and Secondary Education Act (ESEA) of 1965, as amended by the Every Student Succeeds Act (ESSA) of 2015, requires that a State Education Agency establish a State Unsafe School Choice Option policy in order to receive funding under ESEA.

**22 DE Reg. 297 (10/01/18)**

**2.0 Definitions**

In this regulation, the following terms shall have the meanings indicated below:

"**Crime**" shall have the same meaning as provided in 14 **Del.C.** §4112.

"**Enrolled Students**" unless the context indicates otherwise, means all students included in the Delaware Student Information System (DELSIS) report for the year of the data collection.

"**Expulsion**" means, for purposes of this regulation, the exclusion from the regular school setting for a period determined by the local district board or charter school board not to exceed one year. The process for readmission shall be determined by the local district board or charter school board.

"**Firearm**" means handgun, rifle, shotgun, or other type of firearm as that term is defined in the federal Gun Free Schools Zone Act at 18 U.S.C.A. §921.

"**Fiscal Year**" means the period of July 1 through June 30.

"**Gun Free Schools Violation**" means the prohibited bringing to school, or possession while in school of a firearm by a student.

"**Persistently Dangerous School**" means a school that has five or more unsafe incidents for every one hundred students enrolled for three consecutive fiscal years.

"**Safe School**" means a school in the same school district that is not currently identified by the Department of Education as a persistently dangerous school.

"**School**" means any public school including charter schools. School property shall have the same meaning as provided in 14 **Del.C.** §4112 (a)(9).

"**Suspension**" means, for the purpose of this regulation, the external (out of school) removal of a student from the general school population.

"**Unsafe Incidents**" means any of the following:

The school suspended or expelled a student for a gun free schools violation; or

The school suspended or expelled a student for a crime committed on school property which is required to be reported under 14 **Del.C.** §4112; or

The school reported a crime committed by a non student on school property that is required to be reported under 14 **Del.C.** §4112.

"**Violent Felony**" shall have the same meaning as provided in 11 **Del.C.** §4201(c).

**22 DE Reg. 297 (10/01/18)**

**3.0 Identification of Persistently Dangerous Schools**

3.1 The Department of Education shall identify each Persistently Dangerous School using the data reported to it pursuant to the provisions of 14 **Del.C.** §4112, 14 **DE Admin. Code** 601, and any expulsion and suspension data as required by the Department.

3.2 Notwithstanding any provision herein to the contrary, any year that a School fails to comply with the reporting mandates, as set forth in 3.1 above, to the Delaware Department of Education or to the appropriate police agency as set forth above, the Department of Education will consider the School as if it otherwise met the criteria to be classified as a Persistently Dangerous School for that year until such time as it may be determined, in the sole discretion of the Department, that the School has met such reporting requirements.

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- 3.3 A School identified as a Persistently Dangerous School will retain that designation for the entire fiscal year.  
**22 DE Reg. 297 (10/01/18)**

**4.0 Students Attending Schools Labeled as Persistently Dangerous**

- 4.1 A student attending a Persistently Dangerous School shall be allowed to choice to a Safe School in the same school district, including a charter school provided that a charter school option exists in that school district's boundaries.
- 4.2 Each public school district having one or more Persistently Dangerous Schools and any charter school identified as a Persistently Dangerous School shall develop a plan and time line that describes the process for notifying parents of the School's status and for relocating any student who exercises the right to choice to a Safe School. The plan shall also describe the corrective actions that will be implemented. The plan shall be forwarded to the Department of Education no later than September 15th of the year that the School is identified.

**22 DE Reg. 297 (10/01/18)**

**5.0 Students Who are Victims of a Violent Felony**

- 5.1 A student who is the victim of a Violent Felony while in or on the grounds of a School in which the student is enrolled shall be allowed to choice to a Safe School in the same school district, including a charter school provided that a charter school option exists in that school district's boundaries.
- 5.2 All school districts and charter schools shall establish a plan that describes their policies and procedures for providing school choice options to a student who is the victim of a Violent Felony, including the process for notifying parents.
- 5.3 Each school district and charter school shall post the policy and procedures on the school district's or charter school's website, with hard copies provided to any requesting parties.

**7 DE Reg. 67 (07/01/03)**

**12 DE Reg. 62 (07/01/08)**

**22 DE Reg. 297 (10/01/18)**