

Students

SUBJECT: SAFE PUBLIC SCHOOL CHOICE OPTION TO STUDENTS WHO ARE VICTIMS OF A VIOLENT CRIMINAL OFFENSE

Any SWBOCES student who is a victim of a violent criminal offense, as defined pursuant to Education Law and Commissioner's Regulations, that occurred on the grounds of the SWBOCES school or SWBOCES program at a host district site or agency that the student attends, shall be allowed to attend a safe public school within the SWBOCES to the extent required by the federal No Child Left Behind Act (NCLB) and state law and regulations. Students with disabilities, as classified by their home districts' Committee on Special Education, who are attending SWBOCES' programs and are victims of a violent criminal offense, may be remanded to their CSE for review and placement, in accordance with law and regulations.

In accordance with Commissioner's Regulations, a "safe public school shall mean a public school that has not been designated by the Commissioner [of Education] as a persistently dangerous public elementary or secondary school."

Violent Criminal Offense

The District Superintendent shall 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 State Penal Law Section 10.00(12) that involves the use or threatened use of a deadly weapon.

Determination Whether Student is a Victim

The District Superintendent shall establish procedures to determine whether a student is a victim of a violent criminal offense that occurred on school grounds of the school the student attends. The District Superintendent/designee shall, prior to making any such determination, consult with the home school district and with any law enforcement agency investigating the alleged violent criminal incident and consider any reports or records provided by such agency. However, a criminal conviction is not required prior to the District Superintendent's determination that a student has been a victim of a violent criminal offense. The District Superintendent may also consult with the SWBOCES' attorney prior to making such determination.

The District 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 such violent criminal offense.

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Notice to Parents/Persons in Parental Relation

A SWBOCES that is required to provide school choice in accordance with applicable provisions of the federal No Child Left Behind Act of 2001, Education Law and Commissioner's Regulations, shall establish procedures for notification of 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 SWBOCES and procedures for such transfer. Such notice shall be, to the extent practicable, provided in the dominant language or mode of communication used by the parents or persons in parental relation to such student. The SWBOCES shall so notify the parents of, or persons in parental relation to, such student within twenty-four (24) hours of the determination that the student has been the victim of a violent criminal offense on school grounds at the school he/she attends.

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

However, **such notification shall not be required** where there are no other public schools within the SWBOCES at the same grade level or a transfer to a safe public school within the SWBOCES is otherwise impossible. Similarly, procedures for such notification of parents/persons in parental relation to students who are victims of violent criminal offenses shall not be required where the SWBOCES has only one public school within the SWBOCES or only one public school at each grade level.

Designation of Safe Public School

It shall be the responsibility of the SWBOCES, based on objective criteria, to designate a safe public school or schools within the SWBOCES to which students may transfer. However, the SWBOCES is not required to designate a safe public school where there are no other public schools within the SWBOCES at the same grade level or if transfer to a safe public school within the SWBOCES is otherwise impossible.

Any student who transfers to a safe public school, in accordance with the provisions of this policy and applicable law and regulation, shall be enrolled in the classes and other activities of the public school to which such student transfers in the same manner as all other students at the public school. The receiving school shall be identified by the SWBOCES and must be at the same grade level as the school from which the student is transferring. To the extent possible the SWBOCES shall 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.

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Transportation for any student permitted to transfer to the safe public school within the SWBOCES shall be provided within the transportation limits established pursuant to Education Law Sections 3635 and 4401(4). Any student who transfers to a safe public school shall be permitted to remain in such safe public school until the student has completed the highest grade level in the school transferred to, or for such other period prescribed by the U.S. Department of Education, whichever is less.

While the parents/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/she currently attends.

Elementary and Secondary Education Act of 1965, Section 9532, as amended by the No Child Left Behind Act of 2001
Education Law Section 2802(7)
8 New York Code of Rules and Regulations (NYCRR) Section 120.5

Adopted: 12/13/2022