



Superintendent's Circular

NUMBER:
SSS-07
Version 01

“PERSISTENTLY DANGEROUS” SCHOOLS – STANDARDS FOR DETERMINATION

*This circular will remain in effect unless rescinded or superseded
by a subsequent version*

BACKGROUND

Section 9532 of the Elementary and Secondary Education Act (ESEA), as amended by the *Every Student Succeeds Act* of 2015 (ESSA) states:

Each State receiving funds under this chapter shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.

20 U.S.C. § 7912.

STANDARDS

The Massachusetts Department of Elementary and Secondary Education, at a meeting of the State Board of Education on March 25, 2003, established the standards to determine an “unsafe” or “persistently dangerous” school. A school may be deemed unsafe either as a whole entity or for an individual student who becomes a victim of a violent criminal offense. These standards were implemented as of July 1, 2003. Following are the standards for (1) individual students and (2) the whole school determination.

INDIVIDUAL STUDENT OPTION

Beginning in the 2003/2004 school year, any student who during school hours becomes a victim of a “violent criminal offense” (as defined by [Massachusetts General Laws Chapter 140, Section 121](#)) which takes place in or on the grounds of a public elementary or secondary school that the student attends must be allowed, to the extent feasible, to transfer immediately to another public school within the school district. For purposes of this policy, “in or on the grounds” of the school includes school premises, school buses, and attendance at school sponsored or school related events including athletic games and field trips.

WHOLE SCHOOL OPTION

To be designated as “persistently dangerous,” a school must meet either of the following criteria for three consecutive years beginning with the most recent enrollment data available to the Department, as well as the prior two years:

- One or more students have been expelled for violation of the Federal Gun-Free Schools Act, v.z. Section 7.3.1. of the BPS Code of Discipline (October 2006 ed), *or*;
- The number of students who have been expelled from school for a period *greater than 45 days* under Mass. General Laws Chapter 71, Section 37H for weapons or physical assaults or for violent crimes as defined by Mass. General Laws Chapter 140, Section 121 exceeds *1.5%* of the student enrollment. The rate will be based on each individual school's enrollment data submitted to the Department (i.e., October Report).

Students who qualify for a safety transfer under either of the aforementioned options will be transferred through the safety transfer process (Superintendent's Circular AMT-07, Safety Transfer Request Procedures). Documentation of a “violent criminal offense” must be attached to the safety transfer request form in the case of a single student option request. It is anticipated that the Department of Elementary and Secondary Education (DESE) will designate schools as “persistently dangerous” based on the aforementioned criteria prior to the

start of school each year. Such a designation will be forwarded directly to the superintendent by the Massachusetts Department of Elementary and Secondary Education.

REMEDIAL ACTION

For any school that meets either standard for a “persistently dangerous “ school designation for two consecutive years,

DESE will request that the school and district evaluate their needs and adopt or revise a corrective action plan to ensure a safe school environment for all students and staff. The school and district shall maintain the corrective action plan as a public record. To the extent feasible, DESE will provide technical assistance to the school and district.

For any school that meets either standard for a “persistently dangerous “ school designation for three consecutive years,

DESE will designate the school as “persistently dangerous.” Parents may then exercise their right to have their child attend a safe public elementary or secondary school within the local educational agency (school district). The school will be required to submit a corrective action plan to DESE. To the extent feasible, DESE will collaborate with other state and local agencies to provide support and technical assistance to the school and district.

If DESE notifies a school or district that the school is or may be designated as “persistently dangerous,” school officials will have ten working days to present information to DESE that may have a bearing on the designation. The local officials’ response may

include any or all of the following:

1. Clarification of the disciplinary incident data submitted
2. The school's safety plan
3. Local efforts to address the school's safety concerns
4. The school safety data reported to the state consistent with requirements of ESEA, Title IVA
5. Safe and Drug-Free Schools and Communities Act, section 4112 (c) (3)
6. More current data that the school may have available
7. Any extenuating circumstances
8. Any other information the school officials believe may be relevant

The Massachusetts Department of Elementary and Secondary Education will review the information provided by the school officials before making a final determination.

It is important to note that failure to transfer a student in a timely manner as required by the law and the Massachusetts Department of Elementary and Secondary Education could result in the loss of federal funds.

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