

TENNESSEE STATE BOARD OF EDUCATION	
UNSAFE SCHOOL CHOICE POLICY	4.202

Every local education agency (LEA) shall implement the Unsafe School Choice Policy which provides any student who attends a persistently dangerous school, or any student who has been the victim of a violent crime while at school, the opportunity to attend a safe school. The Unsafe School Choice Policy is mandated by the federal Every Student Succeeds Act (ESSA) which states “Each State receiving funds under this Act 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.”.

Section 1: Persistently Dangerous Schools

Any public elementary or secondary school, with the exception of a school established specifically for serving suspended or expelled students or students with behavioral disabilities, shall be considered persistently dangerous if it meets the following criteria for three (3) consecutive years:

- (1) Has violence-related disciplinary actions as reported on the Annual Report of Zero Tolerance Offenses. Violence-related disciplinary actions shall be defined as any of the following: possession/use of a firearm, aggravated assault of a teacher or school employee (including a school resource officer assigned to the school), and possession/use of a weapon other than a firearm (a more detailed description of each of these offenses is provided in Section 3 of this policy); or
- (2) Has students who have been the victim of a violent crime at school as defined in Section 2 of this policy; and,
- (3) The sum of violence-related disciplinary actions and/or incidents of student victimization identified in criteria #1 and criteria #2 above are equal to or greater than three (3) percent of the school’s average daily membership.

Required Actions

Year 1: Any school meeting the criteria identified above shall receive notification from the Tennessee Department of Education. The district shall direct available federal and state resources to the school to identify problems and implement corrective action.

Year 2: Any school meeting the criteria for the second consecutive year shall evaluate its current school safety practices and submit a corrective action plan to the Tennessee Department of Education.

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Year 3: Any school meeting the criteria identified above for three consecutive years shall be designated by the Tennessee Department of Education as a persistently dangerous school. Within thirty (30) days of receiving notice of the designation, the director of schools shall:

1. Notify the parents or guardians of all students attending the school that the school has been designated by the Tennessee Department of Education as a persistently dangerous school and provide for all students to be given safe school choice as provided for under ESSA.
2. Submit a corrective action plan to the Commissioner of Education outlining the specific actions and timetable that the school will follow to insure the safety of students and faculty.

Right to Appeal

A school designated as a persistently dangerous school shall have the right to appeal the designation. The appeal must be submitted by the director of schools to the Commissioner of Education within fifteen (15) calendar days of being notified of the persistently dangerous designation and must present clear evidence that the school provides a safe and disciplined learning environment for all students. A committee of practitioners appointed by the Commissioner of Education shall review the appeal within fifteen (15) calendar days.

Removal of Designation

Upon implementation of the approved corrective action plan and the completion of one (1) school year with a level of dangerous incidents below the criteria established above, a school shall no longer be considered persistently dangerous.

Section 2: Victim of a Violent Crime at School

A student shall be considered the victim of a violent crime at school when the following criteria are met:

1. Evidence is found to reasonably indicate that the student has been the victim of any of the applicable offenses identified in T.C.A. § 40-38-111(g) or the attempt to commit one of the applicable offenses as defined under T.C.A. § 39-12-101; and,
2. The offense occurred while the student was attending school or traveling to or from school on a school bus.

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Required Actions

1. The building administrator or a designated representative of a school where an alleged incident of student violent crime victimization has occurred shall immediately report the incident to the appropriate law enforcement agency.
2. Promptly following an investigation by appropriate law enforcement personnel, the building administrator or a designated representative shall determine whether or not reasonable evidence exists to indicate that a student has been the victim of a violent crime. Identification of a perpetrator and/or the filing of criminal charges shall not be considered a prerequisite for determining that a student has been victimized.
3. Upon determination that a student has been victimized, and within ten (10) school days of the event, the director of schools shall offer the student and his/her parent(s) or guardian(s) safe school choice.
4. The building administrator or a designated representative shall file a report with the Tennessee Department of Education as requested by the Commissioner.

Parental Notification

Every public school shall annually notify parents that if their child is the victim of a violent crime at school, the child has the right to attend another grade-appropriate public school in the district.

Section 3: Definitions

For the purposes of this policy, the following definitions shall apply:

Safe School Choice: The student and his/her parent(s) or guardian(s) are provided an opportunity to transfer to another school within the local education agency (LEA) that is safe for the student. To the extent possible, the LEA shall allow transferring students to transfer to a school that is making adequate yearly progress and has not been identified as being in school improvement, corrective action or restructuring. The LEA is encouraged to take into account the needs and preferences of the affected students and parents. The LEA shall assume necessary transportation costs associated with the student attending a safe school. An LEA with only one school at a particular grade level may choose to facilitate a transfer to a school in another school district; however, such transfer shall not be required.

Violence-related disciplinary actions: A violence-related disciplinary action is one taken for any of the following offenses:

1. Possession or use of a firearm, as defined in 18 U.S.C. § 921.

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2. Aggravated assault of a teacher or school employee (including a school resource officer assigned to the school). For purposes of this policy, aggravated assault shall be defined consistent with T.C.A. § 39-13-102.

3. Possession or use of a weapon other than a firearm (as defined in T.C.A. § 39-17-1309).

Violent Crime: Any of the following applicable offenses as identified and defined in T.C.A. § 40-38-111(g): Aggravated arson, Aggravated assault, Aggravated child abuse and neglect, Aggravated kidnapping, Aggravated rape, Aggravated robbery, Aggravated sexual battery, Aggravated spousal rape, Spousal rape and spousal sexual battery, Aggravated vehicular homicide, Carjacking, Criminally negligent homicide, Especially aggravated burglary, Especially aggravated kidnapping, Especially aggravated robbery, First degree murder, Incest, Kidnapping, Rape, Rape of a child, Reckless homicide, Second degree murder, Sexual battery by an authority figure, Sexual battery, Stalking, Statutory rape, Vehicular assault, Voluntary manslaughter.