

## UNSAFE SCHOOL CHOICE OPTION POLICY FOR NEVADA

*Each State receiving funds under the “No Child Left Behind” (NCLB) 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 that student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.*

Under Section 9532 of the *No Child Left Behind* Act of 2001, the Nevada Department of Education establishes the following criteria to define a persistently dangerous school.

For the purpose of this Act, a Nevada public elementary or secondary school shall be deemed to be “persistently dangerous” if the following conditions exist for at least two of three consecutive fiscal years:

- (A) any of the following violent offenses resulting in a criminal citation being issued by a local law enforcement agency or school police to a student or non-student have occurred in the school building, on school grounds, school buses, or school sponsored events.
1. Murder—NRS 200.010
  2. Mayhem—NRS 200.280
  3. Possession of a dangerous weapon on property or in vehicle of school—NRS 202.265
  4. Kidnapping—NRS 200.310
  5. Sexual Assault—NRS 200.366
  6. Robbery—NRS 200.380
  7. Assault—NRS 200.471
  8. Battery—NRS 200.481
  9. Harassment—NRS 200.571
  10. Stalking—NRS 200.575
  11. Hazing—NRS 200.605

The number of criminal citations during one school year must exceed the following percentages, based on school population during count day:

- a) for a school of up to 750 students, 2% of the student population;
- b) for a school of 750-1500 students, 1.75% of the student population;
- c) for a school over 1500 students, 1.5% of the student population.

For any school meeting this criteria in any given year, the district may declare the school in “greatest need” and direct Safe and Drug-Free Schools and Communities Act (SDFSCA) program funds and services to identify the problems and implement a corrective action plan to ensure a safe school learning environment for students, faculty, and other staff. These schools will be offered technical assistance by the Department as appropriate.

EXHIBIT E Education

Document consists of 5 pages.

- ☒ Entire document provided.  
☐ Due to size limitations, pages \_\_\_\_\_ provided. A copy of the complete document is available through the Research Library (775/684-6827) or e-mail [library@lcb.state.nv.us](mailto:library@lcb.state.nv.us).

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Any school meeting these criteria for at least two of three consecutive fiscal years will be designated as *persistently dangerous*. Parents may then exercise their right to have their child attend a safe public elementary school or secondary school making annual yearly progress within the local educational agency, including a public charter school. The LEA will be required to provide the most appropriate school choice options taking into account the needs and preferences of the affected students and parents. The USCO Policy does not authorize resources specifically to cover transportation costs.

A school must fall below the criteria established for the persistently dangerous designation for two consecutive years to be removed from the list of persistently dangerous schools. A student transfer may be temporary or permanent, but must be in effect as long as the student's original school is identified as persistently dangerous.

A local school district may appeal the designation of "greatest need" or "persistently dangerous" to the Nevada Department of Education within 30 calendar days by submitting in writing information such as clarification of incident data, school's safety plan, local efforts to address school's safety concerns, school safety data reported to the state consistent with the requirements of ESEA, Title IV Part A Safe and Drug Free Schools and Communities, more current data the school may have available, other extenuating circumstances such as status as special or alternative school, and other information deemed relevant.

### **Individual Student Option**

Under the individual student option, any student who becomes a victim of a violent criminal offense as defined in this policy must to the extent feasible be allowed to transfer immediately to a safe public elementary school or secondary school making adequate yearly progress within the district.

### **Violent Crime Defined**

For the purpose of this policy, violent crimes are those crimes resulting in criminal citations as identified in (A), 1-11, above.

### **Victim of Violent Crime**

A victim of a violent crime is a victim of one or more of the crimes identified in (A), 1-11.

### **Definitions**

•**Fiscal year** -- The period of July 1 through June 30.

•**Gun-free schools violation** -- a student who is determined to have brought a firearm to a school, or to had possessed a firearm at school (federal Gun-free Schools Act).

•**NRS 200.010 Murder defined.** -- Murder is the unlawful killing of a human being, with malice aforethought, either express or implied, or caused by a controlled substance which was sold, given, traded or otherwise made available to a person in violation of of chapter 453 of NRS. The unlawful killing may be effected by any of the various means by which death may be occasioned.

•**NRS 200.280 *Mayhem – Definition***; Mayhem consists of unlawfully depriving a human being of a member of his body, or disfiguring or rendering it useless. If a person cuts out or disables the tongue, puts an eye out, slits the nose, ear, or lip, or disables any limb or member of another, or voluntarily or of purpose, puts out an eye, that person is guilty of mayhem which is a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years, and a maximum term of not more than 10 years, and may be further punished by a fine of not more than \$10,000.

•**NRS 202.265 *Possession of dangerous weapon on property or in vehicle of school*** – Except as otherwise provided in this section, a person shall not carry or possess, while on the property of the University and Community college system of Nevada or a private or public school or while in a vehicle of a private or public school:

- (a) An explosive or incendiary device;
- (b) A dirk or switchblade knife;
- (c) A nunchaku or trifoil;
- (d) A blackjack or billy club or metal knuckles; or
- (e) A pistol, revolver or other firearm

•**NRS 200.310 *Kidnapping – Degrees***.

1. A person who willfully seizes, confines, inveigles, entices, decoys, abducts, conceals, kidnaps, or carries away a person by any means whatsoever with the intent to hold or detain, or who holds or detains, the person for ransom, or reward, or for the purpose of committing sexual assault, extortion or robbery upon or from the person, or for the purpose of killing the person, or inflicting substantial bodily harm upon him, or to exact from relatives, friends, or any other person any other person any money or valuable thing for the return or disposition of the kidnapped person, and a person who leads, takes, entices, or carries away or detains any minor with the intent to keep, imprison, or confine him from his parents, guardians or any other person having lawful custody of the minor, or with the intent to hold the minor to unlawful service, or perpetrate upon the person of the minor any unlawful act is guilty of kidnapping in the first degree which is a category A felony.

2. A person who willfully and without authority of law seizes, inveigles, takes, carries away, or kidnaps, another person with the intent to keep the person secretly imprisoned within the state, or for the purpose of conveying the person out of the state without authority of law, or in any other manner held to service or detained against his will, is guilty of kidnapping in the second degree which is a category B felony.

•**NRS 200.366 *Sexual assault – Definition***

1. A person who subjects another person to sexual penetration, or who forces another person to make a sexual penetration on himself or another, or on a beast, against the will of the victim or under conditions in which the perpetrator knows or should know that the victim is mentally or physically incapable of resisting or understanding the nature of his conduct, is guilty of sexual assault

**•NRS 200.380 Robbery – Definition**

1. Robbery is the unlawful taking of personal property from the person of another, or in his presence, against his will, by means of force or violence or fear of injury, immediately or future to his person or property, or the person or property of a member of his family, or of anyone in his company at the time of the robbery. A taking is by means of force or fear if force or fear is used to:

- (a) Obtain or retain possession of the property;
- (b) Prevent or overcome resistance to the taking; or
- (c) Facilitate escape.

The degree of force used is immaterial if it is used to compel acquiescence to the taking of or escaping with the property. A taking constitutes robbery whenever it appears that, although the taking was fully completed without the knowledge of the person from whom taken, such knowledge was prevented by the use of force or fear.

**•NRS 200.471 Assault – Definition**

1. “Assault” means intentionally placing another person in reasonable apprehension of immediate bodily harm

**•NRS 200.481 Battery** -- any willful and unlawful use of force or violence upon the person or another

**•NRS 200.571 Harassment – Definition**

1. A person is guilty of harassment if:

- (a) Without lawful authority, the person knowingly threatens:
  - (1) To cause bodily injury in the future to the person threatened or to any other person;
  - (2) To cause physical damage to the property of another person;
  - (3) To subject the person threatened or any other person to physical confinement or restraint; or
  - (4) To do any act which is intended to substantial harm the person threatened or any other person with respect to his physical or mental health or safety and;
- (b) The person by word or conduct places the person receiving the threat in reasonable fear that the threat will be carried out.

**•NRS 200.575 Stalking -- Definition**

1. A person who, without lawful authority, willfully or maliciously engages in a course of conduct that would cause a reasonable person to feel terrorized, frightened, intimidated or harassed, and that actually causes the victim to feel terrorized, frightened, intimidated or harassed, commits the crime of stalking.

•***NRS 200.605 Hazing – Definition***

4. As used in this section, “hazing” means an activity in which a person intentionally or recklessly endangers the physical health of another person for the purpose of initiation into, or affiliation with, a student organization, academic association, or athletic team at a high school, college, or university in this state. The term:

(a) Includes, without limitation, whipping, beating, branding, forced calisthenics, exposure to the elements, forced consumption of food, liquor, drugs or other substances.

(b) does not include any athletic, curricular, extracurricular or quasi-military practice, conditioning or competition that is sponsored or approved by the high school, or university