

**PROPOSED REGULATION OF THE  
DEPARTMENT OF EDUCATION**

**LCB FILE NO. R131-18I**

**The following document is the initial draft regulation proposed  
by the agency submitted on 06/06/2018**

Persistently Dangerous Schools—Unsafe School Choice Option (USCO)  
NDE’s USCO Policy

**History**

The Unsafe School Choice Option (USCO) (section 9532 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind Act of 2001) requires that each State receiving funds under the ESEA establish and implement a statewide policy requiring that students attending a persistently dangerous public elementary or secondary school, or students who become victims of a violent criminal offense while in or on the grounds of a public school that they attend, be allowed to attend a safe public school. As a condition of receiving ESEA funds, each State must certify in writing to the Secretary that the State is in compliance with these requirements.

**Timelines Required**

The Nevada Department of Education is required to complete identification of persistently dangerous schools in time to permit local educational agencies (LEAs) to offer, at least 14 days before the start of the current school year, the required transfer option to students attending persistently dangerous schools annually.

Beginning with the start of the 2003-2004 school year, LEAs also must offer, at least 14 days before the start of the 2003-2004 school year, and each school year thereafter, the opportunity to transfer to a safe school to students who are victims of violent criminal offenses while in or on the school grounds of a public elementary or secondary school that the student attends.

**Identifying Persistently Dangerous Schools**

Definition--every even year, NDE in consultation with a representative sample of LEAs, will develop or update a definition of persistently dangerous schools in Nevada. This team may also include parents and community members in the process of developing its definition.

In addition to developing or updating the definitions--NDE, in conjunction with a representative sample of LEAs, will develop objective criteria to use in identifying persistently dangerous schools. “Objective” generally means not influenced by emotion, surmise, or personal bias. Such objective criteria should encompass areas that students and parents would consider in determining a school’s level of safety, including rates of violent offenses as defined by Nevada current laws and accountability framework. Types of data that could be used as objective criteria include information from records that detail the number of referrals to law enforcement agencies for bringing a firearm to school, results from student surveys about issues such as physical fights on school grounds, or data on gang presence on school grounds. In contrast, subjective information might include data collected in a focus group about community-wide perceptions of safety, or anecdotal information. Objective information collected to help States identify persistently dangerous schools will need to be attributable to individual school sites, and should be both valid and reliable.

## **Providing a Safe Public School Choice Option to Students attending Unsafe Public Schools**

At a minimum, an LEA that has one or more schools identified as persistently dangerous must:

- (1) Notify parents of each student attending the school that NDE has identified the school as persistently dangerous;
- (2) Offer students the opportunity to transfer to a safe public school, which may be a safe public charter school; and
- (3) For those students who accept the offer, complete the transfer. In addition, LEAs must
- (4) Develop a corrective action plan; and
- (5) Implement that plan in 20 days after notification. Parental notification regarding the status of the school and the offer to transfer students may be made simultaneously.

In transferring students to safe public schools, LEAs should allow transferring students to transfer to a safe 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. If transferring students are entitled to special services under other Federal statutes (e.g. free appropriate public education (FAPE) for children with disabilities or services for children with limited English proficiency), LEAs must make those services available to eligible children at a safe public school.

The transfers may be temporary or permanent, but the student must be allowed to remain in his or her new school for as long as the student's original school is identified as persistently dangerous. In making the determination of whether the transfer should be temporary or permanent, LEAs should consider the educational needs of the student, as well as other factors affecting the student's ability to succeed if returned to the transferring school.

### **Resources for Transfer**

The USCO statute does not authorize resources specifically to help cover costs associated with transferring a student from a persistently dangerous school. However, under certain circumstances Federal funds may be used. For example, ESEA Title IV, Part A [section 4115(b)(2)(E)(v)] funds may be used to establish safe zones of passage to and from school to ensure that students travel safely on their way to school and on their way home. In addition, Title V, Part A [sections 5121(8) and 5131(12) and (25)] funds may be used to help cover costs such as tuition or transportation related to USCO or expansion of public school choice.

### **Corrective Action Plan**

NDE can provide technical assistance as the LEA's corrective action plan is developed and implemented, if needed and help identify resources. Corrective action should be based on an analysis of the problems faced by the school and address the issues that resulted in the school being identified as persistently dangerous. Some examples of corrective action include hiring additional personnel to supervise students in common areas, increased instructional activities in conflict resolution, working with law enforcement officials to identify and eliminate gang-related activities, in-service training of teachers and

administrators concerning consistent enforcement of school discipline policies, limiting access to campuses, and hiring of security personnel or purchase of security equipment.

Upon completion of its planned corrective action, an LEA may apply to NDE to have the school removed from the list of persistently dangerous schools. The SEA should reassess the school using the agreed upon criteria for the identification of persistently dangerous schools.

NDE has 20 days to respond back to district submitting the corrective action plan

**Alternative Schools**

This policy does not specifically address public alternative schools that serve students removed from regular educational placements because of behavioral problems.