

**PROPOSED REGULATION OF THE
STATE BOARD OF EDUCATION**

LCB File No. R131-18

December 13, 2018

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1-7, NRS 385A.800 and 392.017.

A REGULATION relating to education; prescribing provisions related to persistently dangerous schools; and providing other matters properly relating thereto.

Legislative Counsel’s Digest:

Existing law requires the Department of Education to identify which schools, if any, are persistently dangerous. (NRS 385A.800) Existing law requires the State Board of Education to establish criteria for identifying a school as persistently dangerous. Existing law also requires the State Board to adopt regulations concerning the choice that must be offered to a pupil to attend another public school, including, without limitation, a charter school, if the pupil is: (1) enrolled in a school that has been identified as persistently dangerous; or (2) the victim of a violent offense while at school or on the grounds of the school in which the pupil is enrolled. (NRS 392.017) **Section 2** of this regulation defines a “persistently dangerous school” as a school which has been identified as such by the Department based on certain criteria related to the safety of the school as provided in **section 3** of this regulation. **Section 3** also requires the Department to review on a biannual basis and, if necessary, revise the criteria for identifying a school as a persistently dangerous school. **Sections 4 and 5** of this regulation establish the procedures a school district must follow if a school has been identified as persistently dangerous. **Section 6** of this regulation requires the Department to ensure compliance with applicable federal law while carrying out the provisions of this regulation and to so certify to the Secretary of State. **Section 7** of this regulation exempts an alternative program for the education of pupils at risk of dropping out of school from the provisions of this regulation.

Section 1. Chapter 392 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 7, inclusive, of this regulation.

Sec. 2. *As used in sections 2 to 6, inclusive, of this regulation, unless the context otherwise requires, “persistently dangerous school” means a public school determined as such by the Department pursuant to section 3 of this regulation.*

Sec. 3. 1. *The Department shall identify a public school as a persistently dangerous school on the basis of the following criteria:*

(a) The number of any of the following incidents which occurred on the property of the public school, at an activity sponsored by the public school or on a school bus while the bus is engaged in its official duties for the public school and which resulted in an arrest or the issuance of a citation by a law enforcement agency or school police officer during the previous school year:

- (1) Murder;*
- (2) Mayhem;*
- (3) Possession of a dangerous weapon while on the property or in a vehicle of the school;*
- (4) Kidnapping;*
- (5) Sexual assault;*
- (6) Robbery;*
- (7) Assault;*
- (8) Battery;*
- (9) Harassment;*
- (10) Stalking; or*
- (11) Hazing.*

(b) Using the final count of pupils from the previous school year, the rate of occurrence of incidents described in paragraph (a) per pupil for each public school which exceeds:

(1) Two percent in a public school where not more than 750 pupils were enrolled;

(2) One and three-quarters percent in a public school where at least 751 but not more than 1,500 pupils were enrolled; or

(3) One and one-half percent in a public school where at least 1,501 pupils were enrolled.

2. The Department shall identify a persistently dangerous school within a time reasonable for the respective school district to comply with the requirements of sections 4 and 5 of this regulation.

3. Each even-numbered year, the Department shall review the criteria set forth in subsection 1 and update the criteria as the Department determines necessary.

4. In carrying out the requirements of subsection 3, the Department:

(a) Shall consult with a representative sample of school districts; and

(b) May collaborate with a team comprised of parents, legal guardians and other members of the community.

Sec. 4. 1. A school district shall offer to a pupil, at least 14 days before the start of each school year, the choice to attend a public school outside his or her zone of attendance pursuant to NRS 388.040, including, without limitation, a charter school, if the pupil is:

(a) Enrolled in a school that has been identified as a persistently dangerous school pursuant to section 3 of this regulation; or

(b) The victim of a violent offense, including, without limitation, an incident listed in paragraph (a) of subsection 1 of section 3 of this regulation, while at school or on the grounds of the school in which the pupil is enrolled.

2. A school district shall notify each parent or legal guardian of a pupil who is enrolled in a school that has been identified as a persistently dangerous school pursuant to section 3 of this regulation concerning the identification of the school as a persistently dangerous school and that, due to such identification, the pupil may transfer to another public school, including a charter school.

3. In offering a transfer to the pupil pursuant to this section, the school district:

(a) Must select a school that is not identified as a persistently dangerous school;

(b) Must select a school that is making adequate yearly progress and is not carrying out a plan for corrective action pursuant to section 5 of this regulation;

(c) Must select a school that provides programs and services the pupil received at the transferring school; and

(d) May consider the preferences of the pupil, parent or legal guardian.

4. The school district shall determine if a transfer offered pursuant to this section is temporary or permanent. In making such a determination, the school district shall consider:

(a) Providing a transfer until the transferring school is no longer identified as a persistently dangerous school;

(b) The educational needs of the pupil; and

(c) The ability of the pupil to achieve academic success.

5. If a pupil accepts an offer to transfer to another school pursuant to this section the school district shall transfer the pupil.

Sec. 5. 1. *A school district shall prescribe a plan for corrective action for a school that has been identified as a persistently dangerous school pursuant to section 3 of this regulation. The plan must include elements which address issues relating to the identification of the school as a persistently dangerous school.*

2. Such a plan must be implemented not later than within 20 days after the school district notifies each parent or legal guardian of a pupil who is enrolled in the school pursuant to subsection 2 of section 4 of this regulation.

3. After the school district implements the plan for corrective action for a school that has been identified as a persistently dangerous school, the school district may apply to the Department to have the identification as a persistently dangerous school removed. The Department shall:

(a) Determine if the school has fully implemented its plan for corrective action;

(b) Determine if the school should continue to be identified as a persistently dangerous school pursuant to section 3 of this regulation; and

(c) Respond to such an application within 20 days after receipt.

4. *The board of trustees of a school may:*

(a) Determine that a school which has been identified as a persistently dangerous school is a school with the greatest need; and

(b) Allocate money and services to such a school for carrying out the provisions of this section.

Sec. 6. *When carrying out the provisions of sections 2 to 7, inclusive, of this regulation, the Department shall:*

1. *Ensure compliance with:*

(a) Any requirement of federal law or condition to the receipt of federal money; and

(b) The Unsafe School Choice Option, 20 U.S.C. § 7912, and any regulations adopted pursuant thereto; and

2. So certify to the Secretary of State.

Sec. 7. The provisions of section 2 to 7, inclusive, of this regulation, do not apply to an alternative program for the education of pupils at risk of dropping out of school pursuant to NRS 388.537.