

Unsafe School Choice Options

Section 1. Background. The Elementary and Secondary Schools Act (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB), requires public schools that receive federal funds under ESEA (a) to allow any student to transfer from an unsafe school to a safe school; and (b) to allow a student, who is a victim of a violent criminal offense at school, to transfer schools. The State of Indiana, through the Office of the Superintendent of Public Instruction, has established a policy for the State to implement the Unsafe School Choice Option, which requires action by local school corporations.

Section 2. Persistently Dangerous School Transfer Option. If a school in East Allen County Schools (“EACS”) is designated as a “persistently dangerous” school, any student enrolled in such a designated school shall be allowed to transfer to a safe school within the school corporation, or any public charter school. Any such transfer shall remain in effect as long as the transferor school is designated as “persistently dangerous.” To be designated a “persistently dangerous” school, for three (3) consecutive years more than two percent (2%) of the students enrolled in the school must have been convicted of any of the following or determined to have committed an act of delinquency that would, if committed by an adult, constitute any of the following:

1. A violent crime as defined by IC 5-2-6.1-8.
2. Possession of any of the following:
 - A. A firearm as defined by IC 35-47-1-5;
 - B. A deadly weapon, as defined by IC 35-41-1-8; or
 - C. A destructive device, as defined by IC 35-47.5-2-4.

However, a conviction or act of delinquency may be included in determining if a school is “persistently dangerous” only if the conduct that results in the conviction or determination of delinquency occurs:

1. In or on the grounds of the EACS school that the student attends immediately before school hours, during school hours, or immediately after school hours.
2. Off school grounds at an activity, function, or event sponsored by the EACS school the student attends; or

3. While traveling to or from an EACS school or an EACS school activity, function, or event on EACS school-provided transportation.

Section 3. Notice of Options to Transfer From An “Unsafe” School. Letter notices will be sent to the parents of all students enrolled outlining the transfer option within ten (10) days after EACS is notified that an EACS school is determined to be “persistently dangerous.” Transfers may be initiated by contacting the Office of Student Services. Generally, any requested transfer will be initiated within the thirty (30) days from the time that the school is designated as “persistently dangerous;” however, if less than forty-five (45) days remain in the semester in which such a determination is made, the transfer will be implemented at the end of the semester.

Section 4. Expiration of Option to Transfer From an “Unsafe” School. A student who has transferred under Section 2 from a school no longer considered to be “persistently dangerous” may not continue to attend the school transferred to in subsequent years unless the transfer can be justified under some other EACS policy or under Section 8 of this policy.

Section 5. Amendment of School Safety Plan at an “Unsafe” School. The school safety plan of any East Allen County School designated as “persistently dangerous” shall be immediately amended by adding a corrective action plan that addresses the cause(s) for the school’s identification as a “persistently dangerous” school.

Section 6. Transfer Options for Victims of a Violent Criminal Offense. A student is a victim of a violent criminal offense if the student is a victim of a violent crime as defined by IC 5-2-6.1-8, or an act of delinquency that would be a violent crime if committed by an adult, that occurs:

1. In or on school grounds of the EACS school that the student attends immediately before school hours, during school hours, or immediately after school hours;
2. Off EACS school grounds at an activity, function, or event sponsored by the EACS school the student attends; or
3. While traveling to or from an EACS school or an EACS school activity, function, or event on EACS provided transportation.

A student who has been charged with a crime or act of delinquency arising out of the same occurrence is not a victim. A student who is a victim of a violent criminal offense, as defined by this policy, shall be permitted to transfer to a safe school in EACS, including a public charter school.

Section 7. Implementation of Transfer Request by a Victim of a Violent Criminal Offense. Any request for such transfer shall be submitted to the Office of Student Services, which shall process the transfer, generally within ten (10) days of the victimization.

Section 8. Length of Transfer of a Victim of a Violent Criminal Offense. In most cases, a transfer by a victim of a violent criminal offense will be in effect until the student reaches the highest grade level at the new school. If the transfer occurs at the elementary school or junior high/middle school level, the student shall have the option of requesting placement outside the "feeder system" from which the student has been transferred.

Section 9. Determination That a Crime Has Occurred. A determination that a violent crime has occurred shall be based on substantial and reliable evidence which may include, but not be limited to, a sworn probable cause affidavit.

Section 10. Annual Notice. Parents and students shall be notified of their transfer options at the beginning of each school year by posting a notification of rights on the EACS website and through the EACS Student/Parent Guide.

Section 11. Reporting Responsibilities. EACS shall report:

1. Expulsion of students enrolled in an EACS school for possession of a firearm, deadly weapon, or destructive device; and
2. Number of students who exercise the crime victim individual option to the Indiana Department of Education as requested.