

Chapter PI 23

ESEA INTRADISTRICT SAFE SCHOOL TRANSFER OPTIONS

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PI 23.01 Authority. This chapter is adopted under ss. 115.28 (9) and 227.11 (2) (a), Stats.

History: CR 02-151: cr. Register July 2003 No. 571, eff. 8-1-03.

PI 23.02 Applicability and purpose. (1) Section 20 USC 7912 requires that each state receiving funds under the Elementary and Secondary Education Act of 1965 establish and implement a statewide policy requiring that pupils attending a persistently dangerous public school, or pupils 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 operated by the local education agency, including a public charter school.

(2) This chapter establishes procedures for all of the following:

- (a) Identification of persistently dangerous schools.
- (b) Identification of victims of a violent criminal offense.
- (c) School board notification and pupil transfer requirements.

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PI 23.03 Definitions. In this chapter:

(1) "Department" means the Wisconsin department of public instruction.

(2) "ESEA" means the federal Elementary and Secondary Education Act of 1965.

(3) "School board" has the meaning given in s. 115.001 (7), Stats.

(4) "School district" has the meaning given in s. 115.01 (3), Stats.

(5) "School hours" means the hours of a normal school day established by a school board under s. 120.12 (15), Stats.

(6) "Victim" means a person who is the subject of a violent criminal offense.

(7) "Violent criminal offense" means a crime specified in the appendix to this chapter.

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PI 23.04 ESEA intradistrict safe school transfer options. The school board of a school shall allow a pupil to attend another appropriate grade level public school operated by the school district, including a public charter school, if either of the following applies to the pupil:

(1) The pupil attends a school identified as persistently dangerous by the department under s. PI 23.05 (1).

(2) The pupil has been a victim of a violent criminal offense as specified under s. PI 23.06.

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PI 23.05 Persistently dangerous schools. (1) The department shall identify persistently dangerous schools using data collected through the school performance report under s. 115.38 (1) (b) 2., Stats., and upon review of information submit-

ted under sub. (3). If the department determines the school is persistently dangerous, it shall notify the school board of the school in writing within 30 days of receiving the information under sub. (3). The department's decision under this section shall be final.

Note: The department's decision is final but does not preclude possible review under subch. III of ch. 227, Stats.

(2) A school may be considered persistently dangerous if the school performance reports under s. 115.38 (1) (b) 2., Stats., indicates that the school meets one of the following criteria:

(a) In each of the 3 school years that immediately precede the current school year, weapon-related suspensions at the school in a school year are greater than 5% of the number of pupils enrolled in the school.

(b) In each of the 3 school years that immediately precede the current school year, the greater of either of the following occurred:

1. The school board of the school expelled in a school year at least 1% of the pupils enrolled in the school for assault, endangering behavior or weapons-related offenses.

2. The school board of the school expelled in a school year 5 or more pupils enrolled in the school for assault, endangering behavior or weapons-related offenses.

(3) The department shall notify in writing the school board of the school that meets the criteria under sub. (2) that the school may be considered persistently dangerous. The notice under this subsection shall be given within 30 days after receiving the data under s. 115.38 (1) (b) 2., Stats. A school board that receives a notice under this subsection shall submit all of the following information to the department within 30 days of receiving the notice:

(a) The school's safety plan.

(b) Local efforts to address the school's safety concerns.

(c) Current data the school may have available that is deemed relevant by the school board that is not reflected in the school performance report.

(d) Other information deemed relevant by the department, upon the department's request.

(4) A school board that has received a notice under sub. (1) shall do all of the following:

(a) Within 10 working days of receiving the notice under sub. (1), notify in writing the parents or guardians of the pupils attending the school that it has been identified as persistently dangerous. The notice shall include an offer to pupils attending the school to transfer to another appropriate grade level public school operated by the school district, including a public charter school.

(b) Within 30 working days of receiving the notice under sub. (1), complete the transfer for those pupils who accept the offer under par. (a).

(c) Within 30 working days of receiving the notice under sub. (1), submit a corrective action plan to the department. Corrective

action activities may include, but are not limited to, any of the following:

1. Providing additional personnel to supervise children.
2. Providing conflict resolution instructional programs.
3. Collaborating with local law enforcement agencies.
4. Providing school discipline enforcement training for school staff.
5. Providing additional security measures.

(5) If a school has been identified as persistently dangerous under sub. (1) in the previous school year, the department shall review the school's performance report data within 30 days after receiving the data under s. 115.38 (1) (b) 2., Stats., and shall request updated information under sub. (3) within 30 days of receiving this updated information. The department shall notify the school that it is no longer considered persistently dangerous if it meets both of the following criteria:

- (a) The school no longer meets the criteria specified under sub. (2).
- (b) The department has determined the school is no longer persistently dangerous based on a review of updated information submitted under sub. (3).

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PI 23.06 Victims of a violent criminal offense. (1)

A pupil may transfer to another appropriate grade level public school operated by the school district if he or she has been a victim of a violent criminal offense under either of the following circumstances and reports the incident to the appropriate law enforcement agency and to the building principal:

(a) The pupil has been a victim of a violent criminal offense while on the school grounds of the school that the pupil attends during school hours or during a school-sponsored event at the school that the pupil attends that does not occur during school hours.

(b) The pupil has been a victim of a violent criminal offense while being transported to school for the purpose of attending curricular programs during school hours or from school to home immediately following school hours on a school bus owned, leased, or contracted by the school district or by a motor vehicle operated as an alternative method of transportation under s. 121.555, Stats. For a pupil who has been a victim of a violent criminal offense while being transported to or from a school by a

common carrier in a school district providing transportation under s. 121.54 (1), Stats., transfer decisions under this section shall be made by the school board or the school board's designee on a case-by-case basis.

Note: The department also encourages school boards and the community to promote safe pedestrian pathways for pupils walking to school for the purpose of attending curricular programs during school hours or from school to home immediately following school hours.

(2) A school board or the school board's designee that has a pupil who meets the provisions under sub. (1) shall do all of the following:

(a) Within 10 working days of the incident being reported under sub. (1), do all of the following:

1. Determine, in consultation with law enforcement officers if necessary, if the incident is a violent criminal offense.

2. Notify in writing the parents or guardians of the pupil of the choice to transfer to another appropriate grade level public school operated by the school district, including a public charter school if the incident is determined to be a violent criminal offense.

(b) Within 30 working days of the pupil accepting the offer under par. (a) 2., complete the transfer.

(3) A school board does not have to allow a pupil under sub. (1) to transfer to another school if the pupil was a victim of a violent criminal offense under any of the following circumstances:

(a) While away from the school he or she attends but during a school sponsored activity or field trip.

(b) While traveling on the school bus to or from a school-sponsored activity or field trip.

(c) While on school grounds of the school he or she attends but not during school hours or during a school-sponsored event.

Note: Federal law does not require a criminal conviction to qualify a pupil as a victim, 20 USC 7912. Accordingly, the determination by the school board or its designee about whether a violent criminal offense has been committed under the statutory definitions found within Wisconsin's criminal code is not an adjudication of the elements of a crime, as found under Wisconsin law, but rather a determination by the school board or its designee about the nature of the alleged conduct at issue. This determination by the school board or its designee will be based upon the reports it receives from law enforcement and other school authorities, including the building principal.

Note: The transfer provision in this chapter only applies if the district has another appropriate grade level public school, including a public charter school. However, the U. S. Department of Education's Guidance encourages, but does not require, school districts to explore other appropriate options such as an agreement with a neighboring school district to accept transfer pupils if there is not another school in the school district for the transferring pupils.

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