

**SUBJECT: SAFE PUBLIC SCHOOL CHOICE**

Any BOCES student who is a victim of a violent criminal offense that occurred on the grounds of the BOCES elementary or secondary school that the student attends, will be allowed to attend a safe public school within the BOCES to the extent required by federal and state law and regulations.

In accordance with Commissioner's regulations, "safe public school" means a public school that has not been designated by the Commissioner of Education as a persistently dangerous public elementary or secondary school.

**Violent Criminal Offense**

The District Superintendent will determine if the student has been the victim of a violent criminal offense. "Violent criminal offense" means a crime that:

- a) Involves infliction of a serious physical injury upon another as defined in New York State Penal Law; or
- b) A sex offense that involves forcible compulsion; or
- c) Any other offense defined in New York State Penal Law that involves the use or threatened use of a deadly weapon.

**Serious Physical Injury**

"Serious physical injury" means a physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health, or protracted loss or impairment of the function of any bodily organ.

**Deadly Weapon**

"Deadly weapon" means any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles.

**Determination Whether Student is a Victim**

Procedures will be established for determination by the District Superintendent of whether a student is a victim of a violent criminal offense that occurred on school grounds of the school the student attends. The District Superintendent will, prior to making any determination, consult with any law enforcement agency investigating the alleged violent criminal offense and consider any reports or records provided by the agency. However, a criminal conviction is not required prior to the District Superintendent's determination that a student has been a victim of a violent criminal offense.

(Continued)

**SUBJECT: SAFE PUBLIC SCHOOL CHOICE (Cont'd.)**

The District Superintendent's determination may be appealed to the Board. However, this determination will not preclude any student disciplinary proceeding brought against the alleged victim or perpetrator of the violent criminal offense.

**Notice to Parents or Persons in Parental Relation**

The BOCES will establish procedures for notification of parents of, or persons in parental relation to, students who are victims of violent criminal offenses of their right to transfer to a safe public school within the BOCES and procedures for the transfer. This notice will be, to the extent practicable, provided in the dominant language or mode of communication used by the parents or persons in parental relation to the student. The BOCES will notify the parents of, or persons in parental relation to, the student within 24 hours of the determination that the student has been the victim of a violent criminal offense on school grounds at the school he or she attends.

Written notice will be provided by personal delivery, express mail delivery, or equivalent means reasonably calculated to assure receipt of such notice within 24 hours of the determination at the last known address or addresses of the parents or persons in parental relation to the student. Where possible, notification will also be provided by telephone if the school has been provided with a telephone number(s) for the purpose of contacting parents or persons in parental relation.

**Designation of Safe Public School**

It is the responsibility of the BOCES, based on objective criteria, to designate a safe public school or schools within the BOCES to which students may transfer. Any student who transfers to a safe public school, in accordance with the provisions of this policy and applicable law and regulation, will be enrolled in the classes and other activities of the public school to which the student transfers in the same manner as all other students at the public school. The receiving school will be identified by the BOCES and must be at the same grade level as the school from which the student is transferring. To the extent possible the BOCES will allow transferring students to transfer to a school that is making adequate yearly progress and has not been identified as requiring school improvement, corrective action, or restructuring. The BOCES will coordinate with the home school district for transportation for any student permitted to transfer to the safe public school within the BOCES designated by the BOCES within the transportation limits established in Education Law Sections 3635 and 4401(4). Any student who transfers to a safe public school will be permitted to remain in the safe public school until the student has completed the highest grade level in the school transferred to.

While the parents or persons in parental relation to the student must be offered the opportunity to transfer their child, they may elect to have the child remain at the school he or she currently attends.

20 USC Section 7912  
Education Law Section 2802(7)  
Penal Law Section 10.00  
8 NYCRR Sections 120.3 and 120.5

Adoption Date; 12/12/24