

Adopt the following new chapter:

CHAPTER 11

UNSAFE SCHOOL CHOICE OPTION

281—11.1 Purpose. Under the federal No Child Left Behind Act of 2001, section 9532, each state receiving federal funds is required to establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school or who becomes a victim of a violent criminal offense while in or on the grounds of a public elementary or secondary school that the student attends, be allowed to attend a safe school within the district.

281—11.2 Definitions. For purposes of this chapter, the following definitions apply.

- (a) “*Department*” means the Iowa Department of Education.
- (b) “*School*” means an attendance center within a school district.
- (c) “*School district*” means a public school district in Iowa.
- (d) “*School year*” means from July 1 until June 30 of the following year.

281—11.3 Whole School Option. Any student attending a persistently dangerous school as defined in this rule is eligible to transfer to a different school within the district. Transportation for students electing to transfer shall be provided according to the district’s transportation policy. The transfers may be temporary or permanent, but must be in effect as long as the student’s original school is identified as persistently dangerous.

In making the determination of whether a transfer should be temporary or permanent, the district shall consider the educational needs of the student, as well as other factors affecting the student’s ability to succeed in his/her new school environment. The district

is encouraged, but not required, to explore other appropriate options such as an agreement with a contiguous school district to accept students if there is no safe school within the transferring district.

A persistently dangerous school is one that meets the following criteria for three consecutive school years.

(a) The school has violence-related, long-term suspensions or expulsions for more than one percent of the student population. Long-term suspensions or expulsion are ten days or more in length. An expulsion requires the action of the local school board. For purposes of this subrule, a violence-related, long-term suspension or expulsion occurs as a result of physical injury or the threat of physical injury to a student while in the school building or on the grounds of the student's attendance center during the hours of the regular school day, or in attendance at school-sponsored activities that occur during the hours before or after the regular school day under one of the following:

- (1) A forcible felony under Iowa Code chapter 702;
- (2) Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 709;
- (3) Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;
- (4) Kidnapping under Iowa Code chapter 710;
- (5) First and secondary degree robbery and extortion under Iowa Code sections 711.2 and 711.3;
- (6) First degree arson under Iowa Code section 712.2;

(7) Use of incendiary or explosive devices such as bombs under Iowa Code section 712.5;

(8) Criminal gang activity under Iowa Code section 723A;

(9) Carrying and or using a weapon under Iowa Code sections 724.3 and 724.4.

(b) The school has two or more students expelled for violating the federal or state gun-free school laws.

(c) The school has one percent of the enrolled student population or five students, whichever is greater, who exercised the individual student option defined in subrule 281—11.4.

For the school year starting July 1, 2003, and in the years thereafter, a school identified as meeting (a) through (c) above for one year shall be given a warning by the department. The school shall review the school's safety plan and prevention activities.

For the school year starting July 1, 2004, and in the years thereafter, a school identified as meeting (a) through (c) above for two consecutive years shall develop and implement a remedial plan. The plan shall include the school wide efforts to support positive student behavior and improve student discipline. The department shall conduct a site visit to the school.

For the school year starting July 1, 2005, and in the years thereafter, a school identified as meeting (a) through (c) for three consecutive years is eligible to be designated as a persistently dangerous school by the department. Prior to assigning the designation, the district may submit information to the department including:

(1) the school's safety plan;

(2) local efforts to address the school's safety concerns;

(3) the school safety data reported to the state consistent with requirements of the federal Safe and Drug Free Schools and Communities program;

(4) more current data the school may have available but has not yet reported; and

(5) any other information deemed relevant.

Within thirty days of receipt and review of the information, the department may determine that the school demonstrates improvement, and may delay the designation for one year. By July 31, the department may, upon review of information that demonstrates improvement, delay the designation for one year. The department shall determine whether the district has made sufficient progress to warrant further consideration as a persistently dangerous school.

Upon designation, the district shall adopt a corrective action plan, which shall be approved by the department. The department shall monitor the district's timely completion of the approved plan. The department shall annually assess the school using (a) through (c) by July 31 to determine whether the school shall remain identified as a persistently dangerous school for the following school year.

At minimum, a district that has one or more schools identified as persistently dangerous shall, within 14 days of the designation, notify parents of each student attending the school that the school has been identified by the department as persistently dangerous. The district must offer students the opportunity to transfer to a safe public school within the district; and for those students who accept the offer, the district shall complete the transfer. A district may deny the transfer if space at the requested school is unavailable. A district shall offer the parent other available options within the district, when available.

281—11.4 Individual Student Option. Any student who becomes a victim of a violent criminal offense shall, to the extent feasible, be permitted to transfer to another school within the district. For purposes of the subrule, a victim of a violent criminal offense is a student who is physically injured or threatened with physical injury as a result of the commission of one or more of the following crimes against the student while in the school building or on the grounds of the student's attendance center.

(a) A forcible felony under Iowa Code chapter 702;

(b) Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;

(c) Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;

(d) Kidnapping under Iowa Code chapter 710;

(e) First and secondary degree robbery and extortion under Iowa Code sections 711.2 and 711.3.

A local school district shall offer an opportunity to transfer to the parent/guardian of a student who meets the definition of a victim of a violent crime within ten calendar days following the date of the request.

281—11.5 District reporting. For purposes of federal compliance, districts shall report data and requested information related to this chapter in a manner prescribed by the department.

DATE

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