

Texas Education Agency  
2009-2010 Guidance Relating to a Student  
Who Is a Victim of a Violent Criminal Offense

This guidance covers the following areas related to a student who is a victim of a violent criminal offense and elects to transfer to another campus:

- I. Purpose;
- II. Definitions;
- III. LEA School Safety Choice Option (SSCO) Transfer Policy;
- IV. Other Conditions of Student Transfer;
- V. Transfers; and
- VI. Transportation
- VII. SSCO Victim Transfer Request Form

**I. Purpose:**

The Unsafe School Choice Option (USCO) [section 9532 of the Elementary and Secondary Education Act (ESEA) of 1965, as amended by the No Child Left Behind (NCLB) Act of 2001] states:

*Each State receiving funds under this Act shall establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary or secondary school, as determined by the State in consultation with a representative sample of local education agencies [LEAs], or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school.*

LEAs **must offer** a student who becomes the victim of a violent criminal offense, while in or on the grounds of a public school, the opportunity, **generally within 14 calendar days of the incident**, to transfer to another grade-appropriate campus within the district.

**II. Definition:**

For purposes of determining SSCO school choice transfer eligibility, any student who, while on the premises of a school or while attending a school-sponsored or school-related activity on or off school property, becomes a victim of one of the violent criminal acts listed below is considered to be a victim of a violent criminal act.

- a) Attempted murder under Texas Penal Code Sections 19.02, 19.03, and 15.01 (reported under PEIMS 425 Action Reason Code 17);
- b) Indecency with a child under Texas Penal Code Section 21.11 (reported under PEIMS 425 Action Reason Code 18);
- c) Aggravated kidnapping under Texas Penal Code Section 20.04 (reported under PEIMS 425 Action Reason Code 19);
- d) Assault on student under Texas Penal Code Section 22.01(a)(1) (reported under PEIMS 425 Action Reason Code 28);
- e) Aggravated assault on student under Texas Penal Code Section 22.02 (reported under PEIMS 425 Action Reason Code 30);
- f) Sexual assault or aggravated sexual assault against a student under Texas Penal Code Sections 22.011 and 22.021 (reported under PEIMS 425 Action Reason Code 32); and
- g) Aggravated robbery –TEC 37.007 (a)(2)(F) (reported under PEIMS 425 Action Reason Code 46).

Note: Texas law [HB 308, 79<sup>th</sup> Leg.] requires districts to develop and implement a transfer system for students involved in sexual assault or aggravated sexual assault who are, at the time the offense occurs, assigned to the same campus.

HB 308 amends the Texas Education Code by adding Section 25.0341. The section applies only to a student who has been:

- convicted of or placed on deferred adjudication or who has been adjudicated under Section 54.03, Family Code;
- whose prosecution under Section 53.03, Family Code, has been deferred;
- or placed on probation under Section 54.04(d)(1), Family Code;

for the offense of sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code.

Upon the request of the student victim's parent or guardian, the district must transfer the student who is the victim of sexual assault to a different campus in the district or, if there is only one campus in the district, to another district. If the victim does not want a transfer, the district must transfer the student who engaged in the offensive conduct, according to the provisions described above, to a district campus other than the campus to which the victimized student is assigned, or to the district's Disciplinary Alternative Education Program (DAEP) or Juvenile Justice Alternative Education Program (JJAEP), if there is only one campus in the district serving the grade level in which the student who engaged in the conduct is enrolled.

In either case, the district is not required to provide transportation to the student who transfers. The length of a transfer to a DAEP or JJAEP under this provision is unlimited.

### **III. LEA Transfer Policy Requirements:**

Each district and charter school must have in place a local policy to guide transfers for students who are victims of a violent criminal act while at any LEA campus or on LEA grounds. The locally developed policy must include each of the following:

- a) Timelines and procedures under which parents are offered transfers, generally within 14 calendar days of the incident;
- b) Timelines and procedures for processing and approving transfer requests within 14 calendar days of the date the request for transfer is made known to the district;
- c) Description of duration for which a transfer is approved and procedures for renewal of a transfer;
- d) A statement of assurance that collection and maintenance of victim data information (e.g. date the incident occurred, incident number, and identity of perpetrator, if known) will be maintained for a minimum of five (5) years for auditing purposes;
- e) A statement of assurance that collection and maintenance of documentation to show that victims' parents were offered the SSCO transfer option; and
- f) A statement of assurance that documentation will be maintained reflecting when a transfer was requested and completed, using the SSCO Victim Transfer Request Form attached.

### **IV. Other Conditions of Student Transfers:**

- A. If the district does not have another public grade-appropriate campus the LEA is encouraged, but not required, to enter into an agreement with a neighboring district to accept transfers.
- B. If the district does not have another public grade-appropriate campus and is unable to enter into an agreement with a neighboring district, the district must consider other alternatives. Such alternatives might include, but are not limited to, the following:

1. Assigning student an adult mentor;
2. Assigning an adult to observe or to accompany student during passing periods between classes;
3. Involving parents to assist in the process of improving the atmosphere of safety and security on campus;
4. Promoting involvement of civic and service groups to assure student safety;
5. Hiring security officers to promote campus safety;
6. Training teachers and other school personnel in discipline techniques that work; and
7. Creating a proactive rather than a reactive administrative policy to address disciplinary issues.

#### **V. Transfers:**

LEAs must offer the parents the option of transferring their student to a safe school, generally within 14 calendar days of any incident where a student, while on the premises of a school or while attending a school-sponsored or school-related activity on or off school property, becomes a victim of a violent criminal offense.

The student is not obligated to transfer to another school, but the LEA is obligated to offer the transfer option available to the student. If the LEA determines that sibling(s) of a student victim might also be endangered, the LEA is strongly encouraged to extend the offer for transfer to the sibling(s), as well.

#### **VI. Transportation:**

The USCO statute does not authorize resources specifically to help cover costs associated with transferring a student to a safe school. The sending LEA may wish to explore other Federal fund sources, such as Title V, Part A, Section 5121(8 & 25) for supporting transportation.

In addition, the LEA is encouraged to work with local victims' assistance units to determine if they have transportation funds available for a student who is a victim of a violent criminal incident.

**VII. SSCO Victim Transfer Request Form:**

To be completed for each student who is a victim of a violent criminal act.

Notification:				
Date LEA Notified Student and Parents Offering School Choice Transfer:				
Means of Notification (Indicate method of notification.)	Sent notice by postal service.	Sent notice home with student.	Emailed notice to parent.	Other means of delivery (Specify)
Student Information:				
_____				
Social Security No. or PEIMS I.D. No. Date of Birth Home Phone				
_____		_____		_____
Last Name		First Name		Middle Initial
_____		_____		
Street Address		City, State, Zip		
Parent/Guardian Information:				
_____		_____		_____
Last Name		First Name		Middle Initial
_____		_____		
Street Address (if different from student's)		City, State, Zip		
Transfer Information:				
_____		_____		
Incident Number		Name of Perpetrator, if known		
_____		_____		
Name of School from Which Student Is Transferring		County/District/Campus Number		
_____		_____		
Name of School to Which Student Is Transferring		County/District/Campus Number		
_____		_____		
Date Transfer Is Requested by Parent		Date Transfer Is Completed by LEA		
_____		_____		
Siblings offered transfer Yes ( ) No ( )		Siblings requested transfer Yes ( ) No ( )		
_____		_____		
School Official Authorizing Student Transfer Signature, Date		Parent Authorizing Student Transfer Signature, Date		
_____		_____		
Official's Typed Name, Date		Parent's Typed Name, Date		
_____		_____		

This form and supporting documentation must be maintained locally and be made available to TEA upon request.

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