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**TITLE 14 EDUCATION**  
**DELAWARE ADMINISTRATIVE CODE**

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**DEPARTMENT OF EDUCATION**  
**OFFICE OF THE SECRETARY**  
**600 School Climate and Discipline**

**608 Unsafe School Choice Option Policy**

**1.0 Purpose**

The State receives funds under Title 20, Chapter 70 of the United States Code (Strengthening and Improvement of Elementary and Secondary Schools) and, as a result, is required to establish and implement an unsafe school choice policy in accordance with 20 U.S.C. § 7912(a). Pursuant to 14 **Del.C.** §122(b)(2), this regulation sets forth the State's unsafe school choice policy.

**22 DE Reg. 297 (10/01/18)**

**27 DE Reg. 669 (03/01/24)**

**2.0 Definitions**

The following words and terms, when used in this regulation, shall have the following meanings:

**"Department"** means the Delaware Department of Education.

**"Fiscal year"** means the period of July 1 through June 30.

**"Persistently dangerous school"** means a school that meets the criteria in subsection 3.1.

**"Safe school"** means a school in the same school district that is not currently identified by the Department as a persistently dangerous school.

**"School"** means any public school including charter schools.

**"Violent felony"** shall have the same meaning as provided in 11 **Del.C.** §4201(c).

**22 DE Reg. 297 (10/01/18)**

**27 DE Reg. 669 (03/01/24)**

**3.0 Identification of Persistently Dangerous Schools**

3.1 A school shall be identified as a persistently dangerous school if 5 or more unsafe incidents for every 100 students enrolled occurred during the 3 previous consecutive fiscal years.

3.2 Unsafe incidents are set forth in subsections 3.2.1 through 3.2.4.

3.2.1 The school suspends or expels a student for bringing a firearm to the school in violation of 20 U.S.C. §7961.

3.2.2 The school suspends or expels a student for possessing a firearm at the school in violation of 20 U.S.C. §7961 or while in or on a safe school zone, as defined in 11 **Del.C.** §1457A(a)(4), pursuant to 11 **Del.C.** §1457A(f).

3.2.3 The school suspends or expels a student for a crime committed on school property that is required to be reported under 14 **Del.C.** §4112.

3.2.4 The school reported a crime committed by a nonstudent on school property that is required to be reported under 14 **Del.C.** §4112.

3.3 Notwithstanding any provision herein to the contrary, any year that a school fails to comply with the reporting mandates to the Department or to the appropriate police agency as required by law, the Department will consider the school as if it otherwise met the criteria to be classified as a persistently dangerous school for the entire fiscal year.

3.4 The Department shall identify each persistently dangerous school using the data reported to it pursuant to the provisions of 14 **Del.C.** §4112, 14 **DE Admin. Code** 601, and any expulsion and suspension data as required by the Department. For the purpose of this regulation, expulsion means the exclusion from the regular school setting for a period determined by the local district board or charter school board not to exceed 1 year and suspension mean the external, out-of-school removal of a student from the general school population.

3.5 A school that is identified as a persistently dangerous school shall retain the identification as a persistently dangerous school for the entire fiscal year.

**22 DE Reg. 297 (10/01/18)**

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**27 DE Reg. 669 (03/01/24)**

**4.0 Students Attending Schools Labeled as Persistently Dangerous**

- 4.1 A student attending a persistently dangerous school shall be allowed to choice to a safe school in the same school district, including a charter school, provided that a charter school option exists in that school district's boundaries.
- 4.2 Each public school district having 1 or more persistently dangerous schools and any charter school identified as a persistently dangerous school shall develop a plan and timeline that describes the process for notifying parents of the school's status and for relocating any student who exercises the right to choice to a safe school. The plan shall also describe the corrective actions that will be implemented. The plan shall be forwarded to the Department no later than September 15th of the year that the school is identified.

**22 DE Reg. 297 (10/01/18)**

**27 DE Reg. 669 (03/01/24)**

**5.0 Students Who are Victims of a Violent Felony**

- 5.1 A student who is the victim of a violent felony while in or on the grounds of a school which the student is attending shall be allowed to choice to a safe school in the same school district, including a charter school, provided that a charter school option exists in that school district's boundaries.
- 5.2 All school districts and charter schools shall establish a plan that describes their policies and procedures for providing school choice options to a student who is the victim of a violent felony, including the process for notifying parents.
- 5.3 Each school district and charter school shall post the policy and procedures on the school district's or charter school's website, with hard copies provided to any requesting parties.

**7 DE Reg. 67 (07/01/03)**

**12 DE Reg. 62 (07/01/08)**

**22 DE Reg. 297 (10/01/18)**

**27 DE Reg. 669 (03/01/24)**