



# Title VIII, Part F, Subpart 2 – Other Provisions

## UNSAFE SCHOOL CHOICE OPTION GUIDANCE HANDBOOK

*EVERY STUDENT SUCCEEDS ACT*

PR3000—Title II, Part A

**Federal Program Compliance Division**

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# Unsafe School Choice Option (USCO) Statewide Policy Requirement

This document serves as the Statewide Policy and guidance for the sole purpose of meeting Section 8532 of ESSA.

The Every Student Succeeds Act (ESSA), Title VIII, Part F, Subpart 2, Section 8532, requires any state that receives ESSA grant funds to establish and implement a statewide policy requiring that a student who—

- attends a persistently dangerous public elementary or secondary school as identified by the Texas Education Agency (TEA); or
- becomes a victim of a violent criminal offense, 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 school or secondary school within the LEA, including a public charter school.

## LEA-Required USCO Student Transfer Policy

LEAs are required to have a local policy that must include the transfer process for students attending a persistently dangerous school, as identified by TEA, and for student victims of criminal violence. The locally developed policy must include each of the following:

1. Timelines and procedures under which parents are notified and offered transfers, generally within 14 calendar days of the incident.
2. 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 LEA.
3. A description of the duration for which a transfer is approved and procedures for renewal of a transfer.
4. A statement of assurance that collection and maintenance of victim data information (for example, incident date, incident number, and identity of perpetrator, if known) will be maintained for a minimum of five years for auditing and validation monitoring purposes.
5. A statement of assurance that the LEA will collect and maintain documentation to show that victims' parents were offered the USCO transfer option.
6. A statement of assurance that documentation will be maintained reflecting when a transfer was requested and completed.

## Victim of a Violent Criminal Offense

In addition to the campus identification requirement, USCO requires that a student who becomes a victim of a violent criminal offense be allowed to attend a safe public elementary or secondary school within the LEA, including a public charter school.

For purposes of determining USCO transfer eligibility, a student is considered a victim of a violent criminal offense if, while on the premises of a school or while attending a school-sponsored or school-related activity on or off school property, he or she becomes a victim of any of the following:

PEIMS/TSDS Action-Reason Code (C165)	Translation
17	Murder, Capital Murder, Criminal Attempt to Commit Murder, Or Capital Murder – TEC §37.007(a)(2)(C)
18	Indecency With A Child – TEC §37.007(a)(2)(D)
19	Aggravated Kidnapping – TEC §37.007(a)(2)(E)
30	Aggravated Assault Under Penal Code §22.02 Against someone other than a school district employee or volunteer – TEC §37.007 (a)(2)(A)
32	Sexual Assault Under Penal Code §22.011 Or Aggravated Sexual Assault Under Penal Code §22.021 Against someone other than a school district employee or volunteer – TEC §37.007(a)(2)(A)
46	Aggravated Robbery – TEC §37.007(a)(2)(F), TEC §37.007(C)-(D) (HB9680)
57	Continuous Sexual Abuse of Young Child Or Disabled Individual Under §21.02 Penal Code – TEC §37.007(a)(2)(I)

## Other Conditions of Student Transfers

If the LEA does not have another public grade-appropriate campus, the LEA is encouraged, but not required, to enter into an agreement with a neighboring LEA to accept transfers.

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

- Involving the victim’s parent(s) in developing the plan for the student to remain on the campus.
- Assigning the student an adult mentor.
- Assigning an adult to observe or to accompany the student during passing periods between classes.
- Involving parents to assist in the process of improving the atmosphere of safety and security on campus.
- Promoting involvement of civic and service groups to assure student safety.
- Hiring security officers to promote campus safety.
- Training teachers and other school personnel in discipline techniques that are evidence-based.
- Creating a proactive administrative policy rather than a reactive one to address disciplinary issues.

## Transportation

The USCO statute does not authorize resources specifically to help cover costs associated with transferring a student that meets the student transfer requirements. However, under certain circumstances, federal funds may be used. In addition, LEAs are encouraged to work with local victims’ assistance units to determine if they have funds available if the student who is transferring has been a

victim of a violent criminal incident.

# Methodology for Identifying USCO Campuses

Based on input from stakeholders from across the state, the following definition has been approved for the sole purpose of meeting Section 8532 of ESSA.

All regular instructional campuses that have at least one of the mandatory expulsion incidents in any of the most recent three years for which data are available will be included in the pool of campuses analyzed. Each incident is counted once, regardless of the number of students involved.

A campus will be identified as a persistently dangerous school (PDS) and required to implement the USCO if it meets the following criteria:

- The campus is coded as a Regular Instructional Campus in [AskTED](#); and
- Campus has reported to PEIMS in the StudentDisciplineIncidentAssociationExtension Complex Type (category code 44425) that the location of the incident occurred on campus or off campus at a school-sponsored activity; and
- The campus has fewer than 200 students and has reported to PEIMS in the StudentDisciplineIncidentAssociationExtension Complex Type (category code 44425) two (2) or more selected mandatory expulsion incidents in each of the three (3) most recent consecutive years for which data are available; or
- The campus has 200 or more students and has a number of mandatory expellable incidents per year equal to 1% or more of its enrollment in each of the three (3) most recent consecutive years for which data are available.

LEAs report data in the summer (PEIMS submission 3); therefore, USCO uses the three previous years' data and not the current year's data to make identifications. The enrollment number or student population figure is the summer PEIMS submission attendance figure, a unique count of the students served at the campus each year.

## Disciplinary Actions – Mandatory Expulsions Included in Methodology

TEA uses the disciplinary actions referenced below to identify mandatory expulsion incidents. The following table provides the PEIMS/TSDS Disciplinary Action Code (C164) applicable to the ... [See the translation for each Action Code in the table, below.]

PEIMS/TSD S Disciplinary Action Code (C164)	Translation
01	Expulsion: Without placement in another educational setting
02	Expulsion: With placement in a juvenile justice alternative education program (JJAEP)
03	Expulsion: With placement in an on-campus disciplinary alternative education program (DAEP). (Do not use this code when a student has been placed in a DAEP, but not expelled.)
04	Expulsion: With placement in an off-campus DAEP. (Do not use this code when a student has been placed in a DAEP, but not expelled.)
09	Continuation of Other District's Expulsion Order
11	Continuation of the District's Expulsion Order from the Prior School Year
12	Continuation of the District's Expulsion with Placement to JJAEP from the Prior School Year
15	Continuation of Other District's Expulsion with Placement to JJAEP
50	Expulsion without Placement in Another Educational Setting: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)
51	Expulsion with Placement to a JJAEP: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)
52	Expulsion with Placement to an On-Campus DAEP: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)
53	Expulsion with Placement to an Off-Campus DAEP: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)
56	Continuation of Other District's Expulsion Order: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)
58	Continuation of the District's Expulsion Order from the Prior School Year: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)
59	Continuation of the District's Expulsion with Placement to JJAEP from the Prior School Year: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)
61	Continuation of Other District's Expulsion with Placement to JJAEP: As a result of a determination by a special education hearing officer (not a hearing officer employed or appointed by the district)

## Disciplinary Action Reasons - Mandatory Expulsion Incidents Included in Methodology

TEA uses the mandatory expulsion incidents referenced below as the basis for identification of persistently dangerous schools and to create the identified campuses and “watch lists” referenced in this document. Any incidents related to a continuation action from a prior school year are omitted from



consideration.

PEIMS/TSDS Action- Reason Code (C165)	Translation
11	Brought a Firearm to School - TEC 37.007(e) or Unlawful Carrying of a Handgun under Penal Code 46.02 – TEC 37.007(a)(1)
12	Unlawful Carrying of a Location-Restricted Knife under Penal Code 46.02 - TEC 37.007(a)(1) (Location-Restricted Knife - blade longer than 5.5 inches)
14	Conduct Containing the Elements of an Offense Relating to Prohibited Weapons Under Penal Code 46.05 – TEC 37.007(a)(1)
16	Arson – TEC §37.007(a)(2)(B)
17	Murder, Capital Murder, Criminal Attempt to Commit Murder, Or Capital Murder – TEC §37.007(a)(2)(C)
18	Indecency With A Child – TEC §37.007(a)(2)(D)
19	Aggravated Kidnapping – TEC §37.007(a)(2)(E)
29	Aggravated Assault under Penal Code §22.02 against a school district employee or volunteer – TEC §37.007(d)
30	Aggravated Assault under Penal Code §22.02 against someone other than a school district employee or volunteer – TEC §37.007 (a)(2)(A)
31	Sexual Assault under Penal Code §22.011 Or Aggravated Sexual Assault under Penal Code §22.021 against a school district employee or volunteer – TEC §37.007(d)
32	Sexual Assault under Penal Code §22.011 or Aggravated Sexual Assault under Penal Code §22.021 against someone other than a school district employee or volunteer – TEC §37.007(a)(2)(A)
36	Felony Controlled Substance Violation – TEC §37.007(a)(3)
37	Felony Alcohol Violation – TEC §37.007(a)(3)
46	Aggravated Robbery – TEC §37.007(a)(2)(F), TEC §37.007(C)-(D) (HB9680)
47	Manslaughter – TEC §37.007(a)(2)(G)
48	Criminally Negligent Homicide – TEC §37.007(a)(2)(H)
49	Engages in Deadly Conduct - TEC §37.007(b)(3)
57	Continuous Sexual Abuse of Young Child or Disabled Individual under §21.02 Penal Code – TEC §37.007(a)(2)(I)
59	<p>Serious Misbehavior, as defined by TEC §37.007(c), while expelled to/placed in a Disciplinary Alternative Education Program (DAEP)-</p> <p>TEC §37.007(c) defines "serious misbehavior" as:</p> <ul style="list-style-type: none"> <li>(1) deliberate violent behavior that poses a direct threat to the health or safety of others;</li> <li>(2) extortion, meaning the gaining of money or other property by force or threat;</li> <li>(3) conduct that constitutes coercion, as defined by Section 1.07, Penal Code; or</li> <li>(4) conduct that constitutes the offense of: <ul style="list-style-type: none"> <li>(A) public lewdness under Section 21.07, Penal Code;</li> <li>(B) indecent exposure under Section 21.08, Penal Code;</li> <li>(C) criminal mischief under Section 28.03, Penal Code;</li> </ul> </li> </ul>

	(D) personal hazing under Section 37.152; or (E) harassment under Section 42.07(a)(1), Penal Code, of a student or district employee.
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## Location of Incident Included in Methodology

The following table provides the PEIMS/TSDS Behavior-Location Codes (C190) applicable to incident location.

PEIMS/TSDS Behavior- Location Code (C190)	Translation
01	On campus
03	Off campus, but at a school-sponsored or school-related activity

## Watch Lists and Persistently Dangerous Schools (PDS) Designation

A campus that meets the identification criteria may be placed on a watch list or designated as persistently dangerous, as follows:

- **Watch List for One Year’s Incidents:** If a campus meets the incident rates in the definition for the most recent year, the Agency will notify the campus/LEA by letter of the watch list status.
- **Watch List for Two Years’ Incidents:** If a campus meets the incident rates in the definition for the two most recent consecutive years, the Agency will notify the campus/LEA by letter of the watch list status.
- **Identified as Persistently Dangerous:** If a campus meets the incident rates in the definition for the three most recent consecutive years, the Agency will identify the campus as persistently dangerous, as required by ESSA, and notify the campus/LEA by letter. The campus is also reported to the US Department of Education (USDE).

## Notice of USCO Identification and Appeal Process

### Initial Notification

TEA analyzes PEIMS data during the fall semester to identify USCO campuses. TEA notifies superintendents, via email, if any campus(es) in their LEA are identified.

### Appeal Process

If the LEA believes a campus’s designation is incorrect and wishes to appeal, the LEA must provide documentation within 21 calendar days from the initial designation notification that shows that the original PEIMS Action-Reason Codes and/or Behavior-Location Codes assigned by the LEA to the incidents at issue were incorrect.

## Review and Final Notification

TEA will review the documentation submitted and make a determination as to whether the campus is to remain on the assigned watch list. TEA will notify the LEA of the final determination.

After the appeal process is complete, campuses identified to be on watch list 1, 2, or persistently dangerous are published on the [TEA ESSA USCO web page](#) approximately 30 calendar days from the initial notification.

## Note

The PEIMS Action Reason Code 36 will remain part of the methodology for the 2023-2024 school year.

If LEA designation is solely due to the use of vaping pens, and the LEA elects to appeal, the LEA must provide documentation stating:

- the PEIMS data were coded incorrectly; or
- the incidents were due to the use of vaping pens.

## Corrective Action Requirements

The corrective action process for campuses identified under USCO is progressive. The tables below outline the LEA-required activities and submissions. LEAs are required to complete the required activities listed below **within 20 calendar days after the public release of the lists**.

<b>Watch List for One Year's Incidents</b>	
<b>Required Activities</b>	<b>Required Submissions</b>
<ul style="list-style-type: none"> <li>▪ Engage in the safety planning and implementation processes associated with the development of a Multi-Hazard Emergency Operations Plan [TEC 37.108(a)]</li> <li>▪ Conduct a School Safety and Security Audit as per the requirements set out in TEC 37.108(b)</li> <li>▪ Engage in the corrective action planning and implementation processes to address any LEA-wide issues or issues identified on the campus as a result of the audit report</li> </ul>	<ul style="list-style-type: none"> <li>▪ All documentation is to be retained locally.</li> <li>▪ All documentation related to the required activities must be readily available for TEA upon request.</li> </ul>

<b>Watch List for Two Year's Incidents</b>	
<b>Required Activities</b>	<b>Required Submissions</b>
<ul style="list-style-type: none"> <li>▪ All activities listed for Watch List for One Year's Incidents</li> <li>▪ Receive technical assistance from the regional Education Service Center or the Texas School Safety Center</li> </ul>	<ul style="list-style-type: none"> <li>▪ LEAs are required to submit the following documents <b>within 30 calendar days after the public release of the lists</b>.</li> <li>▪ Most recent Multi-Hazard Emergency Operations Plan [TEC 37.108(a)]</li> <li>▪ Most recent School Safety and Security Audit Report [TEC 37.108(b)]</li> <li>▪ Corrective Action Plan developed to address any LEA-wide issues or issues identified on the campus as a result of the School Safety and Security Audit Report and review of USCO data that caused the campus to be on the list</li> <li>▪ Documentation showing that the required technical assistance was provided</li> </ul>

<b>Persistently Dangerous</b>	
<b>Required Activities</b>	<b>Required Submissions</b>
<ul style="list-style-type: none"> <li>▪ Parental notification (regarding the status of the school and the offer to transfer students) within fourteen calendar days from the time that the list is made available to the public</li> <li>▪ All activities listed for Watch List for One Year’s Incidents</li> <li>▪ Receive technical assistance from the regional Education Service Center or the Texas School Safety Center</li> </ul>	<ul style="list-style-type: none"> <li>▪ LEAs are required to submit the following documents <b>within 30 calendar days after the public release of the lists</b></li> <li>▪ Copy of the parental notification that was sent to all parents at the campus identified as persistently dangerous (the letter must include the date that it was sent out)</li> <li>▪ Most recent Multi-Hazard Emergency Operations Plan [TEC 37.108(a)]</li> <li>▪ Planning documents associated with the Multi-Hazard Emergency Operations planning process (agendas, minutes, sign in sheets)</li> <li>▪ Most recent School Safety and Security Audit Report [TEC 37.108(b)]</li> <li>▪ Corrective Action Plan developed to address any LEA-wide issues or issues identified on the campus as a result of the School Safety and Security Audit Report and review of USCO data that caused the campus to be on the list</li> <li>▪ Planning documents associated with the Corrective Action Planning process (agendas, minutes, sign in sheets)</li> <li>▪ Documentation showing that the required technical assistance was provided</li> </ul>

# Compliance Monitoring

The Federal Program Compliance Division will conduct yearly random validation monitoring of the required USCO Student Transfer Policy to ensure that LEAs comply with the statutory requirements related to the USCO. Desk audits will be conducted to monitor LEA compliance in offering a transfer to eligible students as reported on the PR6200-Title VIII, Section 8532 School Choice Option Compliance Report. LEAs that do not meet the compliance monitoring requirements will be required to implement corrective actions and receive technical assistance from their regional Education Service Centers.

## Resources

The [TEA USCO web page](#) will be periodically updated as additional information becomes available to support LEAs with the USCO process. Validation guidance documents will also be added to the web page when they become available.

The [Texas School Safety Center web site](#) has resources available that can assist LEAs in carrying out the planning and implementation requirements.

For additional information regarding the PEIMS and Texas Student Data System Data Collection processes and procedures, visit the [TEA Texas Education Data Standards web page](#).

## Contact

The Federal Program Compliance Division (FPC) is the primary contact for USCO-related questions at [ESSASupport@tea.texas.gov](mailto:ESSASupport@tea.texas.gov). If there is another division or department that has the information being requested, the FPC Division will forward your question to the appropriate department or division for guidance.

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