Texas Education Agency
2011-2012 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 Transfers;
V. Transfers;
VI. Transportation; and
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. Definitions:

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:

1) Attempted murder under Texas Penal Code Sections 19.02, 19.03, and 15.01 (reported under PEIMS 425 Action Reason Code 17).
2) Indecency with a child under Texas Penal Code Section 21.11 (reported under PEIMS 425 Action Reason Code 18).
3) Aggravated kidnapping under Texas Penal Code Section 20.04 (reported under PEIMS 425 Action Reason Code 19).
4) Aggravated assault on district employee or volunteer under Texas Penal Code Section 22.02 (reported under PEIMS 425 Action Reason Code 29).
5) Aggravated assault on someone other than a district employee or volunteer under Texas Penal Code Section 22.02 (reported under PEIMS 425 Action Reason Code 30).
6) Sexual assault or aggravated sexual assault against a district employee or volunteer under Texas Penal Code Section 22.011 and 22.021 (reported under PEIMS 425 Action Reason Code 31).
7) Sexual assault or aggravated sexual assault against someone other than a district employee or volunteer under Texas Penal Code Sections 22.011 and 22.021 (reported under PEIMS 425 Action Reason Code 32), and

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8) Aggravated robbery – TEC §37.007(a)(2)(F) (reported under PEIMS 425 Action Reason Code 46).

Note: Texas law [HB 308, 79th Leg.] requires districts to develop and implement a transfer system for students involved in sexual abuse, 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, which applies only to a student:

- who has been convicted of continuous sexual abuse of young child or children under Section 21.02, Penal Code, or convicted of or placed on deferred adjudication for the offense of sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code, committed against another student who, at the time the offense occurred, was assigned to the same campus as the student convicted or placed on deferred adjudication;

- who has been adjudicated under Section 54.03, Family Code as having engaged in such conduct;

- whose prosecution under Section 53.03, Family Code, for engaging in such conduct, has been deferred;

  OR

- or who has been placed on probation under Section 54.04(d)(1), Family Code, for engaging in such conduct;

  AND is the victim of such conduct.

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 SSCO Transfer Policy:

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;

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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 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.

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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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