

WESTMORLAND UNION ELEMENTARY SCHOOL DISTRICT

Board Policy No. 5034: UNSAFE SCHOOL CHOICE OPTION

A. This Policy applies to any Title I District elementary school which may at some time be identified pursuant to criteria established by state and federal law as a "persistently dangerous school" as defined in this Policy. This Policy also applies to students attending any Title I District school who are victims of violent crimes as defined by the California Department of Education and the California Penal Code while in or on the school grounds of the schools they attend.

B. Definitions

1. "Persistently dangerous school" means that both of the following conditions exist for three consecutive fiscal years:

a. The school has a federal or state gun-free schools violation or a violent criminal offense has been committed by a student or a non-student on school property; and

b. The school has expelled students, under the California Education Code for any of the following offenses;

- Assault or Battery upon any school employee - Education Code section 48915(a)(5)
- Brandishing a knife - Education Code section 48915(c)(2)
- Causing serious physical injury to another person, except in self-defense - Education Code section 48915(a)(1)
- Hate violence - Education Code section 48900.3
- Possessing, selling, or furnishing a firearm - Education Code section 48915(c)(1)
- Possession of an explosive - Education Code section 48915(c)(5) . Robbery or extortion Education Code section 48915(a)(4)
- Selling a controlled substance - Education Code section 48915 (c)(3)
- Sexual assault or sexual battery - Education Code section 48915(c)(4)

And the number of expulsions for the above offenses exceeds one of the following rates:

1) For a school of fewer than three hundred enrolled students (300), three expulsions, or

2) For a larger school, one expulsion for every 100 enrolled students or fraction thereof.

2. "Gun-free schools violation" means a student who is determined to have brought a firearm to a school, or to have possessed a firearm at school

3. "Firearm" means a handgun, rifle, shotgun or other type of firearm as described in 19 U.S.C section 921
4. "Expulsion" means an expulsion ordered regardless of whether it is suspended or modified
5. "Assault" means an unlawful attempt coupled with a present ability, to commit a violent injury on the person of another
6. "Battery" means any willful and unlawful use of force or violence upon the person of another
7. "Knife" means any dirk, dagger, or other weapon as defined in California Education Code section 48915(g)
8. "Hate violence" means any act punishable under California Penal Code sections 422.6, 422.7 or 422.75
9. "Explosive" means a destructive device as defined in 18 U.S.C. section 921
10. "Robbery" means acts described in California Penal Code sections 211 and 212
11. "Extortion" means acts described in California Penal Code sections 71, 518, and 519
12. "Controlled substance" means drugs and other substances listed in Chapter 2 of Division 10 of the California Health and Safety Code (commencing with Section 11053
13. "Sexual assault" means acts defined in California Penal Code sections 261, 266(c), 286, 288(a), and 289
14. "Sexual battery" means acts defined in the California Penal Code section 243.4
15. "Enrolled students" means students included in the most current California Basic Educational Data System (CBEDS) report for the school
16. "Violent criminal offense" means an offense which on a case-by-case basis with reference to the California Penal Code is considered to be a violent criminal offense. Examples include, but may not be limited to, attempted murder, battery with serious bodily injury, assault with a deadly weapon, rape, sexual batter, robbery, extortion, and hate crimes.

C. Notice to Parents of Receipt of Notice of Identification of a Persistently Dangerous School

If a District Title 1 school is identified by the California Department of Education as persistently dangerous, the District will inform all parents and guardians of each school identified generally within ten (10) school days of receipt of the notice

D. Appropriate Options

All parents and guardians of students enrolled in schools designated as persistently dangerous shall have the right to meet with the Superintendent to discuss the designation and any appropriate options available to them. The Superintendent may, on a case-by-case basis explore the option of an alternative school or temporary alternative and available educational program with other District superintendents. In considering such options, the Superintendent shall consider the educational needs of the student, as well as other factors affecting the student's ability to succeed in the District school. Students who have been assigned to a particular school, for example an alternative school or juvenile court school due to the student's violent or criminal behavior, or for disciplinary reasons sufficiently serious to justify placement in a particular learning environment, are not entitled to have the placement changed.

F. Corrective Action Plan

Generally, within twenty (20) school days of receipt of notice that a school has been designated as persistently dangerous, the District will develop a corrective action plan and submit it to the California Department of Education and implement that plan in a timely manner. Corrective action will be based on an analysis of the problems faced by the school, and address the issues that resulted in the school being identified as persistently dangerous.

G. Option for Victims of Violent Crimes

If a student attending a Title 1 District school is the victim of a violent criminal offense in or on the school grounds of the school the student attends, the District Superintendent will provide the opportunity to the pupil and the pupil's parent or guardian to meet with the Superintendent to discuss options available to ensure the safety of the pupil. The Superintendent will, in exploring available options, to the extent feasible, take into account the needs and preferences of the affected student and parents of pupil victims. In determining whether a student is the victim of a violent crime, the District will consider the specific circumstances of incidents on a case-by-case basis and may consult with law enforcement agencies, as appropriate, in determining whether a student is the victim of a violent criminal offense as provided for in the California Penal Code. Students who have been assigned to a particular school, for example an alternative school or juvenile court

school due to the student's violent or criminal behavior, or for disciplinary reasons sufficiently serious to justify placement in a particular learning environment who are victims of violent crimes are not entitled to have their placement changed or modified, but, depending on the facts and circumstances of each case, the Superintendent may consider available options for providing them with a safer environment. Records of such discussion shall be kept for at least three years for the purpose of demonstrating compliance with this federal requirement.

Legal Reference:

No child Left Behind Act of 2001, Title IX Part E, Subpart 2, Section 9532 [Unsafe School Choice Option} Title 1, Section 1116(b)(E) Public School Choice

19 U.S.C. Section 921(definition of firearm, explosive)

California Health and Safety Code Sections 11053 et seq.

California Penal Code Sections

71,211,212,243.4,261, 266(c), 286, 288(a), 289,422.6,422.7,422.75,518,519

Education Code Sections

48915(a)(1), (a)(4), (a)(5), (c)(1), (c)(2), (c)(3), (c)(4), (c)(5), (g)

48900.3

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