



# UNSAFE SCHOOL CHOICE OPTION GUIDANCE HANDBOOK

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# ESSA USCO Statewide Policy Requirement

The Every Student Succeeds Act (ESSA), Section 8532, requires any state that receives ESSA grant funds to establish a statewide policy concerning unsafe schools. Under the ESSA Unsafe School Choice Option (USCO), previously referred to as the School Safety Choice Option, LEAs must allow a student to attend a safe public elementary or secondary school within the LEA, including a public charter school, under either of the following conditions:

- The student attends a persistently dangerous public elementary or secondary school as identified by the Texas Education Agency (TEA).
- The student becomes the victim of a violent criminal offense while in or on the grounds of the public elementary or secondary school that the student attends.

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

## 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 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 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:

- Attempted murder under Texas Penal Code Sections §19.02, 19.03, and 15.01 (reported under Public Education Information Management System [PEIMS] 425 Action Reason Code 17)
- Indecency with a child under Texas Penal Code §21.11 (reported under PEIMS 425 Action Reason Code 18)
- Aggravated kidnapping under Texas Penal Code §20.04 (reported under PEIMS 425 Action Reason Code 19)
- Aggravated assault on someone other than a district employee or volunteer under Texas Penal Code §22.02 (reported under PEIMS 425 Action Reason Code 30)
- Sexual assault or aggravated sexual assault against someone other than a district employee or volunteer under Texas Penal Code §22.011 and 22.021 (reported under PEIMS 425 Action Reason Code 32)
- Aggravated robbery – TEC §37.007(a)(2)(F), TEC§37.007(C)-(D) (HB9680) (reported under PEIMS 425 Action Reason Code 46)
- Continuous sexual abuse of young child or children under Texas Penal Code §21.02 occurring on school property or while attending a school-sponsored or school-related activity on or off school property (reported under PEIMS 425 Action Reason Code 57)

## 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; or
- 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 Discipline Action Extension Complex (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 Discipline Action Extension Complex (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 201 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 in a given year.

## 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)	Description of Behavior
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)

<b>PEIMS/TSDS Action- Reason Code (C165)</b>	<b>Description of Behavior</b>
13	Unlawful Carrying of a Club under Penal Code 46.02 – TEC 37.007(a)(1)
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 Children Under Penal Code §21.02 Occurring on school property or while attending a school-sponsored or school-related activity on or off school property - TEC §37.007(a)(2)(I)

## Location of Incident Included in Methodology

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

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

# Watch Lists and “Persistently Dangerous” Designation

A campus that meets the identification criteria may be placed on a watch list or designated “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.

## Notice of USCO Identification

TEA analyzes PEIMS data during the fall semester to identify USCO campuses. Superintendents are notified of any campuses in their LEAs that are identified. Although the USCO identification is considered final, the Superintendent will have 21 calendar days (excluding holidays) to dispute the USCO identification. Information related to the dispute process will be included in the notification to Superintendents.

The watch lists and the PDS list are published on the [USCO page](#) of the agency website approximately 30 calendar days after the initial superintendent notification occurs.

## 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.**

Watch List for One Year’s Incidents	
Required Activities	Required Submissions
<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 Years' 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 LEA-required USCO Student Transfer Policy to ensure 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 the following resources available that can assist LEAs in carrying out the planning and implementation requirements.

- [High-Quality Emergency Operations Planning Toolkit](#) (Includes section on After-Action Reviews, Corrective Action Planning, and Gap Analysis)
- [K-12 School Safety and Security Audit Toolkit](#)

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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