

This section covers criteria for defining persistently dangerous school and transfer policies for students in unsafe schools and victims of violent crime.

The ECS database reflects verification of enacted state policy, whether statute, rule, regulation or formal directive. The database does not include planned and implemented programs approved by the U.S. Department of Education as required by No Child Left Behind, but that are not yet reflected in final state policy. Information in the database and determinations made in this report are those of ECS alone. They do not reflect judgments upon or recommendations to individual states, nor do they imply ECS certification of individual state activity. Likewise, the information and determinations do not imply certification by or approval of the U.S. Department of Education.

Criteria for Unsafe Schools

States have developed criteria for identifying “persistently dangerous” schools.

How States Are Doing

	March 2003	March 2004
Y	(7/14%)	(50/98%)
P	(9/18%)	(1/2%)
N	(34/67%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 50 states appeared to be on track to meet the Criteria for Unsafe Schools requirement, compared with seven in March 2003.

- Y Appears to be on track
- P Appears to be partially on track
- N Does not appear to be on track
- U Unclear or data not available

Transfer Policy for Students in Unsafe Schools

States have established and implemented a statewide policy allowing students to transfer out of a school that has been identified as persistently dangerous into another public school within the district.

How States Are Doing

	March 2003	March 2004
Y	(8/16%)	(49/96%)
P	(7/14%)	(2/4%)
N	(35/69%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 49 states appeared to be on track to meet the Transfer Policy for Students in Unsafe Schools requirement, compared with eight in March 2003.

- Y Appears to be on track
- P Appears to be partially on track
- N Does not appear to be on track
- U Unclear or data not available

Transfer Policy for Victims of Violent Crime

States have established and implemented a statewide policy allowing students who are victims of a violent criminal offense to transfer to another public school within the district.

How States Are Doing

	March 2003	March 2004
Y	(7/14%)	(49/96%)
P	(8/16%)	(2/4%)
N	(35/69%)	(0/0%)
U	(1/2%)	(0/0%)

In March 2004, 49 states appeared to be on track to meet the Transfer Policy for Victims of Violent Crime requirement, compared with seven in March 2003.

Y	Appears to be on track
P	Appears to be partially on track
N	Does not appear to be on track
U	Unclear or data not available

What States Are Doing

States are using a variety of factors and approaches to identify persistently dangerous schools:

- Most states consider offenses or incidents occurring during a three-year period, some consider a two-year period, and a few consider a combination of two and three years.
- Among the methods used for determining the threshold of offenses/incidents: a combination of a percentage of the student enrollment for some offenses and a specific number for other offenses; a specific number of offenses; or a percentage of the student population. Percentage rates range from one-half percent to 6%.
- States' definitions of offenses/incidents vary from detailed lists of offenses to more generic descriptions. The number of schools in a state determined to be persistently dangerous depends on the combination of factors included in a state's policy. A state using a narrowly defined list of offenses also may have a low threshold for the number of offenses, thus increasing the number of schools determined persistently dangerous. A state using a detailed offense list might have a high offense threshold, resulting in a relatively low number of persistently dangerous schools.

As a means of identifying schools at risk of being designated persistently dangerous, **Arkansas** requires schools and districts to report transfers under the unsafe-school choice option and the Public School Choice Act.

Florida schools meeting certain criteria are required to conduct an anonymous schoolwide survey of students, parents and personnel. If a majority (51%) of the survey respondents perceive the school as unsafe, the school is designated persistently dangerous.

In **Indiana**, a panel of local and state school safety experts determine if a school that has met the established criteria for the third consecutive year should be identified as persistently dangerous.

Schools identified as persistently dangerous in **Mississippi** and **North Dakota** have an opportunity, prior to final determination, to provide additional information to the state department of education or the state board of education.

South Dakota's policy considers all offenses occurring on school property, at school-sponsored events or on buses – 24 hours a day, 12 months a year – whether committed by or victimizing students, school personnel or nonschool personnel.

Virginia has clarified and revised the requirements for principals' reports to the local law enforcement agency of incidents occurring on school buses, school property or at school-sponsored activities. The new policy (1) calls for making distinctions between assaults that don't result in bodily injury and those that do, and (2) eliminates the mandate that principals report to local law enforcement all incidents involving assault and assault and battery. Principals, however, must still notify the parents of the students involved as well as the division superintendent, and still have the discretion to report to local law enforcement those assaults as well as assaults and batteries without bodily injury.

<http://leg1.state.va.us/cgi-bin/legp504.exe?031+ful+CHAP0954>

In some cases, state policies involving the designation of persistently dangerous schools contain certain limits or exemptions. **Michigan** and **Tennessee**, for example, exclude alternative schools that have been created to serve suspended or expelled students. **Mississippi's** policy excludes charter schools, but includes alternative schools that have higher thresholds of incidents than other public schools. **New Jersey's** policy applies only to schools in a district receiving Title I funds.

Issues and Challenges

The impact of the label. Classifying a school as "persistently dangerous" is, as one state superintendent noted, "the kiss of death" for that school. For the most part, parents remain fairly patient with publicly available school performance results, but many might not feel comfortable leaving their children in schools designated as unsafe – especially when it takes dramatic safety issues to result in such a designation.

Quality and credibility of data. What constitutes an assault might vary from principal to principal. The line between "too prescriptive" policy and policy that allows data to vary is a fine one. Clearer classifications would contribute to better quality data.

Most states appear to have legitimately and in good faith selected indicators that represent serious threats to student and faculty safety. But these indicators typically are just one element of a formula that includes adjustments for school size, "consecutive-year" requirements and other calculations. The complexity of these formulas, along with an apparent lack of retroactive data, has so far resulted in very few schools being identified as unsafe. According to an August 19, 2003, article in *USA Today*, 44 states and the **District of Columbia** reported having no persistently dangerous schools. In six states, 52 schools made the list (**Pennsylvania**, 28; **Nevada**, eight; **New Jersey**, seven; **Texas**, six; **New York**, two; and **Oregon**, one). These numbers likely will increase, however, as the data collected become more consistent with the criteria established by states.

From the U.S. Department of Education

The Unsafe School Choice Option (USCO) requires that each state receiving funds under the ESEA implement a statewide policy requiring that students attending a persistently dangerous public elementary or secondary school, or students who become victims of a violent criminal offense at school, be allowed to attend a safe public school. This guidance highlights the important USCO and provides guidance on some provisions that may be useful in administering these requirements. (U.S. Department of Education, May 2004)

<http://www.ed.gov/policy/elsec/guid/unsafeschoolchoice.doc>