

TITLE II
ACCREDITED SCHOOLS AND SCHOOL DISTRICTS
CHAPTER 11
UNSAFE SCHOOL CHOICE OPTION

281—11.1(PL107-110) Purpose. Under the federal No Child Left Behind Act of 2001, Section 9532, each state receiving federal funds is required to establish and implement a statewide policy requiring that a student attending a persistently dangerous public elementary school or secondary school or who becomes a victim of a violent criminal offense while in or on the grounds of a public elementary or secondary school that the student attends be allowed to attend a safe school within the district.

281—11.2(PL107-110) Definitions. For purposes of this chapter, the following definitions apply:

“*Department*” means the Iowa department of education.

“*Forcible felony*” means any crime defined in Iowa Code section 702.11. This includes felonious child endangerment, assault, murder, sexual abuse, kidnapping, robbery, arson in the first degree, or burglary in the first degree. Forcible felonies are not willful injury in violation of Iowa Code section 708.4, subsection 2; sexual abuse in the third degree committed between spouses; sexual abuse in violation of Iowa Code section 709.4, subsection 2, paragraph “c,” subparagraph (4); or sexual exploitation by a counselor or therapist in violation of Iowa Code section 709.15.

“*School*” means an attendance center within a school district.

“*School district*” means a public school district in Iowa.

“*School year*” means from July 1 until June 30 of the following year.

281—11.3(PL107-110) Whole school option. Any student attending a persistently dangerous school as defined in this rule is eligible to transfer to a different school within the district. Transportation for students electing to transfer shall be provided according to the district’s transportation policy. The transfers may be temporary or permanent, but must be in effect as long as the student’s original school is identified as persistently dangerous.

In making the determination of whether a transfer should be temporary or permanent, the district shall consider the educational needs of the student, as well as other factors affecting the student’s ability to succeed in the student’s new school environment. The district is encouraged, but not required, to explore other appropriate options such as an agreement with a contiguous school district to accept students if there is no safe school within the transferring district.

11.3(1) A persistently dangerous school is one that meets the following criteria for three consecutive school years:

a. The school has violence-related, long-term suspensions or expulsions for more than 1 percent of the student population. Long-term suspensions or expulsions are more than ten days in length and require the action of the local school board. For purposes of this subrule, a violence-related, long-term suspension or expulsion occurs as a result of physical injury or the threat of physical injury to a student while the student is in the school building or on the grounds of the attendance center during the hours of the regular school day or while the student is in attendance at school-sponsored activities that occur during the hours before or after the regular school day under one of the following:

- (1) A forcible felony as defined in rule 281—11.2(PL107-110);
 - (2) Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;
 - (3) Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;
 - (4) Extortion under Iowa Code section 711.4;
 - (5) Use of incendiary or explosive devices such as bombs under Iowa Code section 712.5;
 - (6) Criminal gang activity under Iowa Code chapter 723A;
 - (7) Carrying or using a weapon under Iowa Code sections 724.3 and 724.4.
- b.* The school has two or more students expelled for violating the federal gun-free school laws.

c. The school has 1 percent of the enrolled student population or five students, whichever is greater, who exercised the individual student option defined in rule 281—11.4(PL107-110).

11.3(2) For the school year starting July 1, 2003, and in the years thereafter, a school identified as meeting the criteria in 11.3(1)“a” through “c” for one year shall be given a warning by the department. The school shall review the school’s safety plan and prevention activities.

For the school year starting July 1, 2004, and in the years thereafter, a school identified as meeting the criteria in 11.3(1)“a” through “c” for two consecutive years shall develop and implement a remedial plan. The plan shall include schoolwide efforts to support positive student behavior and improve student discipline. The department shall conduct a site visit to the school.

For the school year starting July 1, 2005, and in the years thereafter, a school identified as meeting the criteria in 11.3(1)“a” through “c” for three consecutive years is eligible to be designated as a persistently dangerous school by the department. Prior to the department’s assigning the designation, the district may submit information to the department including:

- a. The school’s safety plan;
- b. Local efforts to address the school’s safety concerns;
- c. The school safety data reported to the state consistent with requirements of the federal Safe and Drug-Free Schools and Communities Program;
- d. More current data that the school may have available but has not yet reported; and
- e. Any other information deemed relevant.

Within 30 days of receipt and review of the information, the department may determine that the school demonstrates improvement and may delay the designation for one year. By July 31, the department may, upon review of information that demonstrates improvement, delay the designation for one year. The department shall determine whether the district has made sufficient progress to warrant further consideration as a persistently dangerous school.

Upon designation, the district shall adopt a corrective action plan, which shall be approved by the department. The department shall monitor the district’s timely completion of the approved plan. The department shall annually assess the school using the criteria listed in 11.3(1)“a” through “c” by July 31 to determine whether the school shall remain identified as a persistently dangerous school for the following school year.

At minimum, a district that has one or more schools identified as persistently dangerous shall, within 14 days of the designation, notify parents of each student attending the school that the school has been identified by the department as persistently dangerous. The district must offer students the opportunity to transfer to a safe public school within the district; and for those students who accept the offer, the district shall complete the transfer. A district may deny the transfer if space at the requested school is unavailable. A district shall offer the parent other available options within the district, when available.

281—11.4(PL107-110) Individual student option. Any student who becomes a victim of a violent criminal offense shall, to the extent feasible, be permitted to transfer to another school within the district. For purposes of this rule, a victim of a violent criminal offense is a student who is physically injured or threatened with physical injury as a result of the commission of one or more of the following crimes against the student while the student is in the school building or on the grounds of the attendance center.

1. A forcible felony as define in rule 281—11.2(PL107-110);
2. Offenses, excluding simple misdemeanors, involving physical assault under Iowa Code chapter 708;
3. Offenses, excluding simple misdemeanors, involving sexual assault under Iowa Code chapter 709;
4. Extortion under Iowa Code section 711.4.

Within ten calendar days following the date of the request, a local school district shall offer an opportunity to transfer to the parent/guardian of a student who meets the definition of a victim of a violent crime.

281—11.5(PL107-110) District reporting. For purposes of federal compliance, districts shall report data and requested information related to this chapter in a manner prescribed by the department.

These rules are intended to implement Public Law 107-110, 115 Stat. 1425.

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