

Monroe 2-Orleans BOCES Policy

Series 6000 – Students

Policy #6471 – SAFE PUBLIC SCHOOL CHOICE OPTION TO STUDENTS WHO ARE VICTIMS OF A VIOLENT CRIMINAL OFFENSE

Any student who is a victim of a violent criminal offense, that occurred on the grounds, leased facility or building of the BOCES that the student attends, shall be allowed to attend a safe public school within the home school district to the extent required by the federal No Child Left Behind Act (NCLB) and state law and regulations.

“A safe public school” shall mean a public school that has not been designated by the Commissioner of Education, as a persistently dangerous public elementary or secondary school.

Violent Criminal Offense

“Violent criminal offense” means a crime that:

- a) Involves infliction of a serious physical injury upon another as defined in New York State Penal Law; or
- b) A sex offense that involves forcible compulsion; or
- c) Any other offense designed in State Penal Law that involves the use or threatened use of a deadly weapon.

Determination Whether Student is a Victim

Procedures shall be established for determination by the District Superintendent of whether a student is a victim of a violent criminal offense. The District Superintendent shall, prior to making any such determination, consult with any law enforcement agency investigating the alleged violent criminal incident and consider any reports or records provided by such agency. However, a criminal conviction is not required prior to the District Superintendent's determination that a student has been a victim of a violent criminal offense. The District Superintendent may also consult with the BOCES attorney prior to making such determination. The District Superintendent will refer their determination to the student’s home school superintendent. However, this determination will not preclude any student disciplinary proceeding brought against the alleged victim or perpetrator of such violent criminal offense by the home school district.

Notice to Parents/Legal Guardians

The District Superintendent will establish procedures for notification of parents/legal guardians of students who are victims of violent criminal offenses of their right to transfer to a safe public school within the home school district and procedures for such transfer.

However, such notification shall not be required where there are no other public schools within the home school district at the same grade level or a transfer to a safe public school within the home school district is otherwise impossible. Similarly, procedures for such notification of parents/legal guardians to students who are victims of violent criminal offenses shall not be required where the home school district has only one public school within the District or only one public school at each grade level.

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It shall be the responsibility of the student's home school district, based on objective criteria, to designate a safe public school or schools within the home school district to which students may transfer. However, the home school district is not required to designate a safe public school where there are no other public schools within the home school district at the same grade level or transfer to a safe public school within the home school district is otherwise impossible. Similarly, if the home school district has only one public school within the school system or only one public school at each grade level, the home school district shall not be required to designate a safe public school.

Any student who transfers to a safe public school, in accordance with the provisions of this policy and applicable law and regulation, shall be enrolled in the classes and other activities of the public school to which such student transfers in the same manner as all other students at the public school. The receiving school shall be identified by the home school district and must be at the same grade level as the school from which the student is transferring. To the extent possible the home school district shall allow transferring students to transfer to a school that is making adequate yearly progress and has not been identified as requiring school improvement, corrective action, or restructuring. The home school district shall provide transportation for any student permitted to transfer to the safe public school within the District designated by the school system within the transportation limits established pursuant to Education Law Sections 3635 and 4401(4). Any student who transfers to a safe public school shall be permitted to remain in such safe public school until the student has completed the highest grade level in the school transferred to.

While the parents/legal guardians to the student must be offered the opportunity to transfer their student, they may elect to have the student remain at the school they currently attend.

Elementary and Secondary Education Act of 1965,
Section 9532, as amended by the No Child Left Behind
Act of 2001
Education Law Section 2802(7)
8 New York Code of Rules and Regulations
(NYCRR) Section 120.5

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