



JULY 2003 AGENDA

SUBJECT	X	ACTION
No Child Left Behind (NCLB): Title IX, Persistently Dangerous Schools		INFORMATION
		PUBLIC HEARING

Recommendation:

The State Board of Education approve the designation of “persistently dangerous” for schools that currently meet the Board’s policy definition for persistently dangerous and delegate Board liaison(s) the authority for the “persistently dangerous” school designation process between the July Board meeting and the September Board meeting.

Summary of Previous State Board of Education Discussion and Action

The Board approved the *No Child Left Behind* (NCLB) Consolidated Application on May 30, 2002; that action included the adoption of the definition of “persistently dangerous” schools (see Attachment A). At its December, 2002 meeting the Board agreed with US Department of Education Draft Non-Regulatory guidelines that the policy would be applied retroactively to 2000-2001, 2001-2002, and 2002-2003 years.

Summary of Key Issue(s)

Federal Statute

Provisions of Title IX, Section 9532 of NCLB Act require that:

“...a student attending a persistently dangerous public elementary school or secondary school, as determined by the State in consultation with a representative sample of local educational agencies, ...be allowed to attend a safe public elementary or secondary school within the local educational agency, including a public charter school.”

Federal Regulations

On June 16, 2003, the U.S. Department of Education issued final regulations requiring that each state identify schools that meet its definition of a persistently dangerous school in sufficient time to permit Local Education Agencies (LEAs) to offer students in schools, identified as persistently dangerous, the option to transfer to a safe school at least 14 calendar days before the start of the 2003-2004 school year, and each school year thereafter.

Summary of Key Issue(s)

Definition of Persistently Dangerous Schools

Under California's policy, a school shall be designated "persistently dangerous" if for three consecutive fiscal years the total number of expulsions, for offenses delineated in the policy, for students enrolled in the school exceeds one of the following rates:

- (a) for a school of 299 enrolled students or less, more than three expulsions, or
- (b) for a larger school of 300 or more enrolled students, more than one expulsion for every 100 enrolled students or fraction thereof.

Designation of Persistently Dangerous Schools

CDE staff will present to the State Board the names of schools that have met the criteria for designation as "persistently dangerous" based on expulsion data CDE has received from LEAs up to July 9, 2003, and request that the State Board officially designate those schools as "persistently dangerous." Following the designation of "persistently dangerous" schools by the Board, CDE staff will immediately inform the affected LEAs in writing of the schools designated "persistently dangerous" and include the following materials: corrective action plan forms that must be completed by the LEA and submitted to CDE for approval and monitoring; requirements for parent/student notifications and related time lines; and technical assistance resources.

Please note that the CDE provided superintendents and charter school administrators with information and policy direction, in correspondence dated April 18, 2003, regarding the implementation of the federal requirements pertaining to "persistently dangerous" schools. Additionally, on May 27, 2003, CDE presented an informational web cast to LEAs on the "persistently dangerous" school federal requirements [Unsafe School Choice Option (USCO), Title IX, Section 9532] that was broadcast to nineteen county office of education receiving sites around the state. The web cast included time to answer questions and provide clarification on the federal requirements, California's policy definition, and data collection requirements.

CDE is using the Consolidated Application (ConApp) for Funding Categorical Aid Programs, Part I to electronically collect pertinent expulsion information from LEAs to use in identifying "persistently dangerous" schools. The "Persistently Dangerous School Reporting Form" (see sample in Attachment B) in the ConApp collects expulsion information for the 2000-01, 2001-02, and 2002-03 fiscal years.

Delegation Authority to Board Staff for Designation Process

The CDE expects to receive the required expulsion information from a substantial number of LEAs on or shortly after the June 30 due date for the ConApp. Using this information, CDE will be able to submit the names of schools that meet the "persistently dangerous" policy criteria to the State Board during its July meeting and recommend that they be designated as "persistently dangerous." However, it is possible, based on expulsion information received from additional

Summary of Key Issue(s)

LEAs following the Board meeting that more schools may need to be designated “persistently dangerous.” Since the Board does not plan to meet in August, the earliest that any additional schools could be officially designated “persistently dangerous” would be at the Board’s September meeting, unless the Board delegates approval authority for the “persistently dangerous” school identification process. CDE staff, therefore, recommends that the State Board delegate its approval authority to one or more Board members for the “persistently dangerous” identification process so that “persistently dangerous” schools can continue to be designated as appropriate before the start of the 2003-04 school year.

Fiscal Analysis (as appropriate)

N/A

Attachment(s)

- Attachment A: [State Board-adopted definition of persistently dangerous schools \(Pages 2\)](#)
- Attachment B: [Sample “Persistently Dangerous School Reporting Form.” \(Pages 1\)](#)



California State Board of Education Policy

SUBJECT	POLICY #
	02-03
“Persistently Dangerous” Schools	DATE
	May 2002
REFERENCES	
No Child Left Behind Act of 2001, TITLE IX, PART E, SUBPART 2, SEC. 9532. UNSAFE SCHOOL CHOICE OPTION.	
HISTORICAL NOTES	
None.	

No Child Left Behind Act of 2001
TITLE IX, PART E, SUBPART 2, SEC. 9532. UNSAFE SCHOOL CHOICE OPTION

In the context of this Act, a California public elementary or secondary school is considered to be “persistently dangerous” if each of the following two conditions exists for three-consecutive fiscal years:

- (1) 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
- (2) the school has expelled students, under *California Education Code*, for any of the following offenses:
 - assault or battery upon any school employee—Section 48915(a)(5)
 - brandishing a knife—Section 48915(c)(2)
 - causing serious physical injury to another person, except in self-defense—Section 48915(a)(1)
 - hate violence—Section 48900.3
 - possessing, selling, or furnishing a firearm—Section 48915(c)(1)
 - possession of an explosive—Section 48915(c)(5)
 - robbery or extortion—Section 48915(a)(4)
 - selling a controlled substance—Section 48915(c)(3)
 - sexual assault or sexual battery—Section 48915(c)(4)

The number of expulsions for these offenses must exceed one of the following rates:

- (a) for a school of fewer than 300 enrolled students, three expulsions
- (b) for a larger school, one expulsion for every 100 enrolled students or fraction thereof

California State Board of Education

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For the purpose of this definition—“fiscal year” means the period of July 1 through June 30 (*California Education Code*, section 37200); “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 (federal Gun-Free Schools Act); “firearm” means handgun, rifle, shotgun or other type of firearm (section 921 of title 18, *United States Code*); “violent criminal offense” means all of the offenses identified in condition (2) above; “expulsion” means an expulsion ordered regardless of whether it is suspended or modified; “assault” means an unlawful attempt, coupled with a present ability, to commit a violent injury on the person of another (*California Penal Code*, section 240); “battery” means any willful and unlawful use of force or violence upon the person of another (*California Penal Code*, section 243), “knife” means any dirk, dagger, or other weapon as defined in *California Education Code*, section 48915[g]); “hate violence” means any act punishable under *California Penal Code*, sections 422.6, 422.7, 422.75; “explosive” means a destructive device (section 921 of title 18, *United States Code*); “robbery” means acts described in *California Penal Code*, sections 211, 212; “extortion” means acts described in *California Penal Code*, sections 71, 518, 519; “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); “sexual assault” means acts defined in *California Penal Code*, sections 261, 266(c), 286, 288, 288(a), 289; “sexual battery” means acts defined in *California Penal Code*, section 243.4; “enrolled students” means students included in the most current California Basic Educational Data System (CBEDS) report for the school.

2002-2003 "Persistently Dangerous" School Reporting Form

California Department of Education

Consolidated Application

Purpose: This page is to collect student expulsion information to be used in identifying "persistently dangerous" schools to comply with NCLB requirements. Failure to complete this form may result in the withholding of NCLB funding for California.	Agency: Sand Dunes Unified School District						
	CD code:	5	9	7	7	0	8

School: Sand Dunes High School	School Code: 5 9 7 7 0 9 4	Submission: <input checked="" type="checkbox"/> Original <input type="checkbox"/> Revision	Date: 06 / 20 / 2003
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Violent Criminal Offense {Pertinent California Educational Code (CEC) Referenced}	Number of Expulsions Ordered per Fiscal Year		
	2000-2001	2001-2002	2002-2003
Are there any expulsions reported for any of the nine California Education Code violations referenced below?	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
CEC Section 48900.3 -- Hate Violence	0	0	2
CEC Section 48915(a)(1) -- Causing serious physical injury to another person	4	6	3
CEC Section 48915(a)(4) -- Robbery or extortion	2	0	1
CEC Section 48915(a)(5) -- Assault or battery upon any school employee	0	1	2
CEC Section 48915(c)(1) -- Possessing, selling, or furnishing a firearm	0	1	1
CEC Section 48915(c)(2) -- Brandishing a knife	0	2	3
CEC Section 48915(c)(3) -- Selling a controlled substance	3	7	4
CEC Section 48915(c)(4) -- Sexual assault or sexual battery	0	1	2
CEC Section 48915(c)(5) -- Possession of an explosive	0	0	1
Total Expulsions	9	18	19
CBEDS Total Enrollment	1,705	1,717	1,645
Is the school "at risk" of being designated "persistently dangerous"??*	No	Yes	Yes

* A school is "at-risk" of being designated "persistently dangerous" when the total expulsions in a given year for the above code sections meets two criteria:
 1) there must be more than one expulsion per 100 students or fraction thereof; and 2) there must be more than three expulsions.