

Category: **STUDENTS**

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Subject: SAFETY TRANSFERS

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SUMMARY OF CHANGES

This regulation replaces and supersedes Chancellor's Regulation A-449 dated January 14, 2008.

Changes:

- This regulation is updated to reflect the current Department of Education organization.
- The required documentation for safety transfer has been revised to facilitate registration at the transfer site.
- The notices and forms for effectuating safety transfers have been mandated.

ABSTRACT

This regulation sets forth the procedures for granting safety transfers (1) when students are victims of a violent criminal offense on school property; and (2) in other situations, when it is determined that a student's continued presence in the school is unsafe for the student.

I. INTRODUCTION

- A. This regulation sets forth the procedures for determining whether to grant safety transfers to students.
- B. **SAFETY TRANSFERS UNDER THE NO CHILD LEFT BEHIND ACT:** In accordance with the No Child Left Behind Act, a student who is the victim of a violent criminal offense in or on the grounds of a school he/she attends must be notified that he/she has the right to transfer to a safe school. If the student requests such a transfer, it must be granted if it is determined that the student has been the victim of a violent crime on the school's grounds.
- C. **OTHER SAFETY TRANSFERS:** A student may also request a safety transfer in a situation where the student was not the victim of a violent criminal offense on school grounds. Such a request should be granted where it is determined that the student's continued presence in the school is unsafe for the student.

II. NO CHILD LEFT BEHIND SAFETY TRANSFERS FOR VICTIMS OF VIOLENT CRIMINAL OFFENSES

- A. The law defines a "violent criminal offense" as:
 - 1. A crime that involves infliction of a serious physical injury¹ upon another as defined in the State Penal Law (e.g., assault, arson); or
 - 2. A sex offense that involves forcible compulsion (e.g., rape, sodomy, sexual abuse); or
 - 3. Any other offense defined in the Penal Law that involves the use or threatened use of a deadly weapon.²
- B. If school personnel learn that a student may be the victim of a violent criminal offense on school grounds, the principal/designee must conduct a full investigation and take appropriate action in accordance with Chancellor's Regulations A-412 and A-443. In addition, the following steps must be taken immediately.
 - 1. The principal/designee must notify the NYPD, the Emergency Information Center ("EIC") and the student's parent(s) of the incident.
 - 2. In order to determine whether the student has been the victim of a violent criminal offense (as defined above), the principal must consult with the NYPD. The following procedures have been established with the NYPD's School Safety Division.
 - a. If the principal/designee believes that the student may be a victim of a violent criminal offense, the principal/designee must contact the NYPD's School Safety Sergeant assigned to the precinct covering the school. If the School Safety Sergeant is not available, the principal/designee must consult with the precinct commander or his/her designee.

¹ Penal Law 10.00 (10) defines "serious physical injury" as a "physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ."

² Penal Law 10.00 (12) defines "deadly weapon" as "any loaded weapon from which a shot, readily capable of producing death or other serious physical injury, may be discharged, or a switchblade knife, gravity knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, or metal knuckles."

- b. The principal/designee must provide the name and/or number of the school, the date, time, and location of the incident, and the name(s) of the victim(s).
 - c. Within one school day of the school's inquiry, the NYPD will verbally confirm whether they are investigating an allegation that the student was the victim of a violent criminal offense on school property as defined above. A written confirmation from the NYPD will also follow.³
 - d. Within 24 hours of receipt of the NYPD's verbal confirmation, the principal/designee must notify the Director of Suspensions at the Integrated Service Center (ISC)/Director of Safety and Suspensions at the Children First Network (CFN)⁴ who serves as the designee of the Chief Executive Officer (CEO) for the Office of School and Youth Development (OSYD) and provide all of the relevant facts. All documentation (witness statements, occurrence reports, etc.) must be available for review by the Director of Suspensions.
 - e. Within 24 hours of receipt of the principal/designee's notification, the Director of Suspensions must determine whether there is reason to believe that the student was a victim of a violent criminal offense on school grounds. The Director of Suspensions may consult with the Office of Legal Services to make this determination. Note that a criminal conviction is not required for a determination that there is reason to believe that a student was the victim of a violent criminal offense.
 - f. If the Director of Suspensions determines that there is reason to believe the student was the victim of a violent criminal offense on school grounds, the student is entitled to a transfer.
3. Within 24 hours of the determination that there is reason to believe that a student was a victim of a violent criminal offense on school grounds and is therefore entitled to a transfer, the Director of Suspensions must notify the parent in writing of the right to transfer the student to another public school (see Attachment No. 1). This notice⁵ must be provided by personal delivery, express mail delivery or any other equivalent means reasonably calculated to assure receipt of such notice within 24 hours of the determination (e.g., facsimile or email).
 - a. The Director of Suspensions should request that the parent notify him/her within five days of receipt of the notice whether the parent wishes to discuss transfer options.
 - b. If the parent does not respond within five days, the Director of Suspensions must contact the parent.
 - c. If the parent wishes to pursue a transfer, the Director of Suspensions, in consultation with the Office of Student Enrollment, (Student Enrollment) Executive Director of Borough Enrollment/designee will select a transfer site to offer the parent. For students in District 75 public school settings, the Director of Suspensions will consult with the District 75 Director of Placement to select a transfer site to offer a parent. To the extent possible, a student should be transferred to a school that is making adequate yearly progress according to the standards set forth in the No Child Left Behind Act and that has not been identified as being a school in need of improvement, corrective action or restructuring.

³ The information provided by the NYPD may be used solely for the purposes outlined in this memorandum.

⁴ Hereinafter referred to as Director of Suspensions.

⁵ Any letter sent in connection with this memorandum should be sent, to the extent practicable, in the parent(s) dominant language or mode of communication. In those cases where it is not feasible to obtain a full translation of the letter, it should be sent in English with an attached notice in the parent(s) dominant language or mode of communication stating the following "The attached letter contains important information about your child. Please have it translated as soon as possible."

- d. The Director of Suspensions must inform the parent of the transfer site within ten calendar days of the determination that there is reason to believe the student was the victim of a violent criminal offense (see Attachment No. 2). The Director of Suspensions must also inform the transfer site that the student will be transferred to that location upon receipt of consent from the parent.
 - e. Transferred students must be provided with transportation in accordance with existing policy and regulations.
 - f. Though the parent of the student must be offered the opportunity to transfer the student, he/she may elect to have the child remain in the school.
4. Principals/designees and Director of Suspensions must maintain appropriate documentation regarding their consultations with law enforcement officials as well as parental notification, police reports, etc.

III. OTHER SAFETY TRANSFERS

- A. Safety transfers are also available where the student is not the victim of a violent criminal offense on school grounds, if a student's parent has requested a safety transfer and it is determined that the student's continued presence in the school is unsafe for the student. Student Enrollment's Executive Director of Borough Enrollment/designee shall make this determination following a recommendation by the principal/designee. For District 75 students in public school settings, the District 75 Director of Placement will make this determination following a recommendation by the District 75 principal/designee.
- B. If the request involves a school-related safety incident, the principal/designee must ensure that a full investigation was conducted, an occurrence report was prepared, statements from the parties involved and witnesses were obtained, and appropriate disciplinary action was taken in accordance with Chancellor's Regulations A-412 and A-443. If the incident was criminal in nature, the principal/designee should ask the parent for a copy of the police report. In assessing the request, the principal/designee should review the results of the investigation and all of the supporting documentation.
- C. Within 48 hours of receipt of the parent's request for a safety transfer and all supporting documentation, the principal/designee must make a recommendation to Student Enrollment's Executive Director for Borough Enrollment/designee of whether he/she believes that a safety transfer is warranted (see Attachment No. 4). The principal/designee must provide the following documents to Student Enrollment's Executive Director of Borough Enrollment/designee.
 1. Safety Transfer Intake Form (see Attachment No. 3);
 2. Summary of investigation (see Attachment No. 4);
 3. Copy of school occurrence report; and
 4. Copy of police report.
- D. Within one week of receipt of the principal/designee's recommendation and other documentation, the Student Enrollment's Executive Director of Borough Enrollment/designee, in consultation with the Safety Administrator at the ISC/Director of Safety and Suspensions at CFN, where appropriate, must determine whether to grant a safety transfer and must notify the parent in writing of the determination.

For students in District 75 public school settings, the District 75 Director of Placement must determine whether to grant a safety transfer and must notify the parent in writing, if so determined. If the transfer request is granted, the written notification must: 1) advise the parent of the school to which the student is being offered a transfer; and 2) inform the transfer site that the student is being offered a placement there.

IV. TRANSFER DOCUMENTATION

Where a safety transfer is granted, the sending school must provide Student Enrollment's Executive Director of Borough Enrollment with the following documentation to facilitate registration at the transfer site:

- A. Immunization Records;
- B. Transcript and/or current report card;
- C. Copy of student's program card; and
- D. Individualized Education Program ("IEP"), if applicable.
- E. 504 Accommodation Plan, if applicable.

V. INQUIRIES

Inquiries pertaining to this regulation should be addressed to:

FOR NO CHILD LEFT BEHIND TRANSFERS:

Telephone:
(212) 374-4368

Office of School and Youth Development
NYC Department of Education
52 Chambers Street
New York, NY 10007

Fax:
(212) 374-5751

FOR OTHER SAFETY TRANSFERS:

Telephone:
(212) 374-2363

Office of Student Enrollment
NYC Department of Education
52 Chambers Street
New York, NY 10007

Fax:
(212) 374-5568