

STATE OF NEW YORK

745

2023-2024 Regular Sessions

IN SENATE

January 6, 2023

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to requiring persistently dangerous schools to file an incident reduction plan detailing the steps the school will take to reduce incidents of violence and disruption and requiring notice to be given to victims of harassment, bullying, or violent offenses of their right to transfer to another public school

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 7 of section 2802 of the education law, as
2 amended by section 8 of part YY of chapter 59 of the laws of 2017, is
3 amended to read as follows:
4 7. Notwithstanding any other provision of state or local law, rule or
5 regulation to the contrary, any student who attends a persistently
6 dangerous public elementary or secondary school, as determined by the
7 commissioner pursuant to paragraph a of this subdivision, or who is a
8 victim of harassment or bullying, as defined pursuant to subdivision
9 seven of section eleven of this chapter, or a violent criminal offense,
10 as defined pursuant to paragraph [b] c of this subdivision, that
11 occurred on the grounds of a public elementary or secondary school that
12 the student attends, shall [~~be allowed to attend~~] have the right to
13 transfer to a safe public school within the [~~local educational agency to~~
14 ~~the extent required by section eighty five hundred thirty two of the~~
15 ~~Elementary and Secondary Education Act of nineteen hundred sixty five,~~
16 ~~as amended~~] school district.
17 a. The commissioner shall annually determine which public elementary
18 and secondary schools are persistently dangerous in accordance with
19 regulations of the commissioner developed in consultation with a repre-
20 sentative sample of local educational agencies. Such determination shall
21 be based on data submitted through the uniform violent incident report-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ing system over a period prescribed in the regulations, which shall not
2 be less than two years, reports of violent incidents and criminal
3 offenses from school safety agents and police officers, reports of
4 violent or harmful conduct by teachers and administrative staff, and any
5 other data reasonably required by the commissioner related to safety.

6 b. Each public elementary and secondary school designated as persis-
7 tently dangerous pursuant to paragraph a of this subdivision shall, in
8 the subsequent school year, submit to the commissioner an incident
9 reduction plan detailing the steps the school will take to reduce inci-
10 dents of violence and disruption and remove the persistently dangerous
11 designation by the following school year. Such plan shall include, at a
12 minimum, the prevention and intervention strategies recommended pursuant
13 to paragraph c of subdivision two of section twenty-eight hundred one-a
14 of this article. Notwithstanding any provision to the contrary, an
15 elementary or secondary school designated as persistently dangerous, and
16 which remains on the persistently dangerous list for three consecutive
17 years, shall be subject to closure on June thirtieth following the third
18 consecutive year of such persistently dangerous designation except that
19 upon a finding of good cause, the commissioner may grant such school up
20 to two additional academic years to achieve results that would remove
21 the persistently dangerous designation.

22 [~~b~~] c. Each local educational agency required to provide unsafe school
23 choice shall establish procedures for determinations by the superinten-
24 dent of schools or other chief school officer of whether a student is
25 the victim of harassment, bullying, or a violent criminal offense that
26 occurred on school grounds of the school that the student attends. Such
27 superintendent of schools or other chief school officer shall, prior to
28 making any such determination, consult with any law enforcement agency
29 investigating such alleged violent criminal offense and consider any
30 reports or records provided by such agency. The trustees or board of
31 education or other governing board of a local educational agency may
32 provide, by local rule or by-law, for appeal of the determination of the
33 superintendent of schools to such governing board. Notwithstanding any
34 other provision of law to the contrary, the determination of such chief
35 school officer pursuant to this paragraph shall not have collateral
36 estoppel effect in any student disciplinary proceeding brought against
37 the alleged victim or perpetrator of such violent criminal offense. For
38 purposes of this subdivision, "violent criminal offense" shall mean a
39 crime that involved infliction of serious physical injury upon another
40 as defined in the penal law, a sex offense that involved forcible
41 compulsion or any other offense defined in the penal law that involved
42 the use or threatened use of a deadly weapon.

43 [~~e~~] d. Each local educational agency, as defined in subsection thirty
44 of section eighty-one hundred one of the Elementary and Secondary Educa-
45 tion Act of nineteen hundred sixty-five, as amended, that is required to
46 provide school choice pursuant to section eighty-five hundred thirty-two
47 of the Elementary and Secondary Education Act of nineteen hundred
48 sixty-five, as amended, shall establish procedures for notification of
49 parents of, or persons in parental relation to, students attending
50 schools that have been designated as persistently dangerous and parents
51 of, or persons in parental relation to, students who are victims of
52 harassment, bullying, or violent criminal offenses of their right to
53 transfer to a safe public school within the [~~local educational agency~~]
54 school district and procedures for such transfer[, ~~except that nothing~~
55 ~~in this subdivision shall be construed to require such notification~~
56 ~~where there are no other public schools within the local educational~~

1 ~~agency at the same grade level or such transfer to a safe public school~~
2 ~~within the local educational agency is otherwise impossible or to~~
3 ~~require a local educational agency that has only one public school with~~
4 ~~in the local educational agency or only one public school at each grade~~
5 ~~level to develop such procedures].~~ Such notification shall also include
6 a list of designated safe public schools within the school district to
7 which the student may transfer, to the extent practicable, be provided
8 in the dominant language and mode of communication of parents of, or
9 persons in parental relation to, such students, and be provided no later
10 than ten days after such school has been designated as persistently
11 dangerous, or for students who are victims of harassment, bullying, or a
12 violent criminal offense, within twenty-four hours of such determi-
13 nation. If there are no safe public schools within the school district
14 at the same grade level, the notification of the right to transfer shall
15 include an offer of assistance in pursuing options outside of the school
16 district. The commissioner shall be authorized to adopt any regulations
17 deemed necessary to assure that local educational agencies implement the
18 provisions of this subdivision.
19 § 2. This act shall take effect immediately.