§ 2802. Uniform violent incident reporting system. 1. The commissioner, in conjunction with the division of criminal justice services, shall promulgate regulations defining "violent or disruptive incidents" for the purposes of this section.

2. The commissioner, in conjunction with the division of criminal justice services, shall establish a statewide uniform violent incident reporting system which public school districts, boards of cooperative educational services and county vocational education and extension boards shall follow.

3. The uniform violent incident reporting system shall require public school districts, boards of cooperative educational services and county vocational education and extension boards to annually report to the commissioner in a form and by a date prescribed by the commissioner, the following information concerning violent and disruptive incidents that occurred in the prior school year:

a. the type of offenders;

b. if any offender is a student, the age and grade of the student;

c. the location at which the incident occurred;

d. the type of incident;

e. whether the incident occurred during or outside of regular school hours;

f. where the incident involves a weapon, whether the weapon was a firearm, knife or other weapon;

g. the actions taken by the school in response to the incident, including when the incident was reported to law enforcement officials and whether disciplinary action was taken against the offenders;

h. any student discipline or referral action taken against a

student/offender, including but not limited to an out-of-school suspension, an involuntary transfer to an alternative placement, an in-school suspension, a referral for community service, a referral for counseling, or a referral to the juvenile justice system, and the duration of such action; and

i. the nature of the victim and the victim's age and grade where appropriate.

4. The commissioner shall require a summary of such information to be included, in a form prescribed by the commissioner, in the school district report cards or board of cooperative educational services report cards required by this chapter.

5. By April first of each year, the commissioner shall report to the governor, the legislature and the regents concerning the prevalence of violence and disruptive incidents in the public schools, and the effectiveness of school programs undertaken to reduce violence and assure the safety and security of students and school personnel. The report shall summarize the information available from the incident reporting system, and compare the incidence of violent and disruptive incidents of schools and school districts and boards with other schools and school districts and boards based on similarity in size and grade levels and other characteristics, including student need and resources, as determined by the commissioner. The report shall also, to the extent possible, relate the results available from the incident reporting system, together with such other analysis and information as the commissioner determines is appropriate, to the effectiveness of school violence measures undertaken by participating schools and school districts, including the school codes and school safety plans required by sections twenty-eight hundred one and twenty-eight hundred one-a of this article.

6. The commissioner, in conjunction with the commissioner of the division of criminal justice services, shall promulgate regulations to implement the provisions of this section and to assure to the extent practicable that the reports used by school districts are uniform and

comparable with respect to the types of incidents reported and the responses of the schools and the school districts. Such regulations shall provide for the confidentiality of all personally identifiable information and shall ensure that any personally identifiable information which is collected is used only for its intended purpose.

7. Notwithstanding any other provision of state or local law, rule or regulation to the contrary, any student who attends a persistently dangerous public elementary or secondary school, as determined by the commissioner pursuant to paragraph a of this subdivision, or who is a victim of a violent criminal offense, as defined pursuant to paragraph b of this subdivision, that occurred on the grounds of a public elementary or secondary school that the student attends, shall be allowed to attend a safe public school within the local educational agency to the extent required by section eighty-five hundred thirty-two of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended.

a. The commissioner shall annually determine which public elementary and secondary schools are persistently dangerous in accordance with regulations of the commissioner developed in consultation with a representative sample of local educational agencies. Such determination shall be based on data submitted through the uniform violent incident reporting system over a period prescribed in the regulations, which shall not be less than two years.

b. Each local educational agency required to provide unsafe school choice shall establish procedures for determinations by the superintendent of schools or other chief school officer of whether a student is the victim of a violent criminal offense that occurred on school grounds of the school that the student attends. Such superintendent of schools or other chief school officer shall, prior to making any such determination, consult with any law enforcement agency investigating such alleged violent criminal offense and consider any reports or records provided by such agency. The trustees or board of education or other governing board of a local educational agency may provide, by local rule or by-law, for appeal of the determination of the superintendent of schools to such governing board. Notwithstanding any

other provision of law to the contrary, the determination of such chief school officer pursuant to this paragraph shall not have collateral estoppel effect in any student disciplinary proceeding brought against the alleged victim or perpetrator of such violent criminal offense. For purposes of this subdivision, "violent criminal offense" shall mean a crime that involved infliction of serious physical injury upon another as defined in the penal law, a sex offense that involved forcible compulsion or any other offense defined in the penal law that involved the use or threatened use of a deadly weapon.

c. Each local educational agency, as defined in subsection thirty of section eighty-one hundred one of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended, that is required to provide school choice pursuant to section eighty-five hundred thirty-two of the Elementary and Secondary Education Act of nineteen hundred sixty-five, as amended, shall establish procedures for notification of parents of, or persons in parental relation to, students attending schools that have been designated as persistently dangerous and parents of, or persons in parental relation to, students who are victims of violent criminal offenses of their right to transfer to a safe public school within the local educational agency and procedures for such transfer, except that nothing in this subdivision shall be construed to require such notification where there are no other public schools within the local educational agency at the same grade level or such transfer to a safe public school within the local educational agency is otherwise impossible or to require a local educational agency that has only one public school within the local educational agency or only one public school at each grade level to develop such procedures. The commissioner shall be authorized to adopt any regulations deemed necessary to assure that local educational agencies implement the provisions of this subdivision.