

DATE:	August 17, 2023
SUBJECT:	Safe Schools – Federal Designation Update
CATEGORY:	School Safety
NEXT STEPS:	Share with the appropriate staff

The purpose of this letter is to provide guidance regarding school safety issues for educational leaders in the field and to provide updates regarding provisions of [House Bill \(HB\) 3](#) and [HB 114](#) of the 88th Regular Session, effective September 1, 2023.

Unsafe School Choice Option (USCO)

The ESSA, Title VIII, Section 8532-Unsafe School Choice Option (USCO), requires any state that receives ESSA grant funds to establish and implement a statewide policy to identify:

- Any student attending a public elementary or secondary school identified as a “persistently dangerous school (PDS)”;
- Any student who becomes a victim of a violent criminal offense while in or on the grounds of a public elementary school or secondary school that the student attends.

The policy further requires the option for these students to attend a safe public elementary school or secondary school within the local educational agency (LEA), including a public charter school.

2023-2024 Persistently Dangerous Schools Identification

For the 2023-2024 school year, using PEIMS data reported for the 2022-2023 school year, a campus will be identified as a persistently dangerous school (PDS) and required to implement the ESSA, Title VIII, Section 8532-Unsafe School Choice Option (USCO) if it meets the following criteria:

- The campus is coded as a Regular Instructional Campus in [AsktED](#); and
- Campus has reported to PEIMS in the Student Discipline Incident Association Extension Complex Type (category code 44425) that the location of the incident occurred on campus or off campus at a school-sponsored activity; and
- The campus has fewer than 200 students and has reported to PEIMS in the Student Discipline Incident Association Extension Complex Type (category code 44425) two (2) or more selected mandatory expulsion incidents in each of the three (3) most recent consecutive years for which data are available; or
- The campus has 201 or more students and has a number of mandatory expellable incidents per year equal to 1% or more of its enrollment in each of the three (3) most recent consecutive years for which data are available.

LEAs report data in the summer (PEIMS submission 3); therefore, USCO uses the three previous years’ data and not the current year’s data to make identifications. The enrollment number or student population figure is the summer PEIMS submission attendance figure, a unique count of the students served at the campus each year.

Persistently Dangerous Schools Designations:

- **Watch List for One Year's Incidents:** If a campus meets the incident rates in the definition for the most recent year, the Agency will notify the campus/LEA by letter of the watch list status.
- **Watch List for Two Years' Incidents:** If a campus meets the incident rates in the definition for the two most recent consecutive years, the Agency will notify the campus/LEA by letter of the watch list status.
- **Identified as Persistently Dangerous School:** If a campus meets the incident rates in the definition for the three most recent consecutive years, the Agency will identify the campus as persistently dangerous, as required by ESSA, and notify the campus/LEA by letter. Campus is also reported to the US Department of Education (USDE).

Persistently Dangerous Schools Designation Appeal:

If the LEA believes its designation is incorrect and wishes to appeal, the LEA must provide documentation within 21 calendar days from the initial designation notification that shows that the original PEIMS Action-Reason Codes and/or Behavior-Location Codes assigned by the LEA to the incidents at issue were incorrect. TEA will review the documentation submitted and make a determination as to whether the campus is to remain on the assigned watch list.

The PEIMS Action Reason Code 36 will remain part of the methodology for the 2023-2024 school year. If LEA designation is solely due to the use of vaping pens and LEA elects to appeal, the LEA documentation must provide documentation stating:

- the PEIMS data were coded incorrectly; or
- the incidents were due to the use of vaping pens.

For a detailed explanation of the process, refer to the [USCO Handbook](#). The handbook outlines the PEIMS codes used in the methodology.

For information or guidance on the USCO process, please send inquiries to ESSASupport@tea.texas.gov.

2024-2025 Persistently Dangerous Schools Identification and Impact of Recent Legislation

For the 2024-2025 school year using PEIMS data reported for the 2023-2024 school year. [House Bill \(HB\) 3](#) and [HB 114](#) of the 88th Regular Session, effective September 1, 2023, are described below. The change in how these data are reported in PEIMS will assist with a decrease in the number of mandatory expulsions for felony-level drugs.

Mandatory Disciplinary Placements:

HB 114 of the 88th regular legislative session may assist with a decrease in the number of mandatory expulsions for felony-level drugs (which include marijuana and Tetrahydrocannabinols (THC) or alcohol offenses). This bill amends §37.006, Education Code (TEC), to now require mandatory disciplinary alternative education program (DAEP) placements for these offenses. Additionally, this bill requires a

student be placed in in-school suspension (ISS) when the appropriate administrator is assigning a DAEP placement for the above behaviors and the DAEP is at capacity, until a place becomes available in the DAEP or the term of the disciplinary action expires.

Out-of-School Suspension and In-School Suspension:

According to TEC, §37.005(a)-(b), the principal or other appropriate administrator may suspend a student who engages in conduct identified in the student code of conduct adopted under TEC, §37.001, as conduct for which a student may be suspended. A suspension under this section **may not exceed three school days**, with the exception of students assigned ISS due to engaging in the offenses above and DAEP being at capacity.

For information regarding the change in PEIMS codes, please submit a TSDS Incident Management System (TIMS) ticket within the TSDS Portal.

For Further Information

For information and guidance on information pertained in this letter, please contact Dr. Amy Blakey (amy.blakey@tea.texas.gov) in the Safe and Supportive Schools Division.