

# ISSUE BRIEF

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## The “Safe Student” Scholarship—Expanding Education Choice Options to Improve School Safety

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School safety has received renewed attention in the wake of the tragic school shootings at Marjory Stoneman Douglas High School in Parkland, Florida, and Santa Fe High School in Santa Fe, Texas. It is an issue, however, that policymakers have struggled to address for decades, and about which parents have worried for just as long. Federal policy has tended toward centralized policy in an effort to improve school safety, while state-level policy has failed to capture other breakdowns in school security, such as when a student is persistently bullied.

Current federal policy provides an Unsafe School Choice Option that has been largely overlooked. States should ensure that implementation of the policy allows all students who are in unsafe environments to transfer to a safe and effective school. At the same time, state policymakers should immediately provide school choice options to children who are direct victims of school violence or bullying, and to those students in schools with a high rate of such victimization, through the introduction of “safe student” scholarships.

### **The Elementary and Secondary Education Act’s Unsafe School Choice Option**

When No Child Left Behind (NCLB) was enacted in 2002 as the seventh reauthorization of the Elementary and Secondary Education Act (ESEA),

policymakers included what is known as the Unsafe School Choice Option (USCO).<sup>1</sup> The USCO required states receiving funding under the law to identify schools that were “persistently dangerous” due to chronic violence, and to allow students assigned to such schools—or students who were direct victims of school violence—to transfer to another public school or charter school of choice.

But a year later, only 54 (out of 94,000)<sup>2</sup> schools across the country had been labeled as persistently dangerous, with no such schools being identified in 44 states<sup>3</sup> and Washington, DC, a district known for high levels of school violence.<sup>4</sup> By 2007, the number of schools identified as persistently dangerous nationwide had declined to just 46.<sup>5</sup>

Although the USCO provision has not been well implemented, the general idea—that children in unsafe school situations should be able to exercise choice—is one that holds merit and should be pursued particularly vigorously by state and local policymakers. Additionally, local school districts should do a better job of informing parents that the option exists, states should do a better job of identifying persistently dangerous schools, and federal policymakers should allow states to broaden their definitions of persistently unsafe schools to ensure that all students who are in unsafe environments can transfer to a safe and effective school.

### **Limitations of the Unsafe School Choice Option as Currently Applied**

Currently, the USCO can be exercised by a student in two situations: (1) the student is a victim of a violent criminal offense, such as aggravated assault or sexual assault, or (2) the student attends a persistently dan-

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gerous school. To transfer to another school under the first criterion, the criminal offense must have been reported to law enforcement by the student, parent, or school personnel. To transfer under the second condition, a student must be enrolled in a school identified by a state as being persistently dangerous, a designation which is up to the state to define.<sup>6</sup>

Although the USCO is sound policy, few students (thankfully) are direct victims of criminal offenses while in school, limiting the reach of the first criterion even though many more students may regularly feel at risk of becoming a victim of violence. Uneven and limited application by states of the second criterion has undercut potentially broader applications of the policy to make it work as intended. Such restrictions may fail to capture other breakdowns in school safety, such as when a student is persistently bullied.

Moreover, an Office of the Inspector General (OIG) audit of five states published in 2007 reports that states were failing to adequately implement the USCO transfer option.<sup>7</sup>

As Bill Gastic and Josephine Gasiewski of Temple University have written, “[T]here are many schools with very high rates of violence that do not make the cut to qualify as persistently dangerous. The failure to extend the transfer option to students at these schools undermines the USCO’s promise to protect students from harm at school.”<sup>8</sup>

Instead of ensuring that states identify persistently dangerous schools, and that parents are equipped with adequate information about the opportunity to transfer their child to a safe school, federal policy has failed to emphasize the transfer option, while tending toward centralized policy in an unsuccessful effort to improve school safety. A 2014 “dear colleague” letter issued by President Obama’s Education and Justice Departments promoted practices to avoid suspension, expulsion, and referral to law enforcement.<sup>9</sup> Subsequently, the Every Student Succeeds Act (ESSA)—the successor to NCLB—allowed states to use federal funding to reduce suspensions and expulsions of students to avoid what is referred to as “exclusionary discipline.” ESSA does maintain the requirement that states adopt statewide policies, which allow students to transfer to another school under the USCO, but this continues to be largely overlooked.

### **A More Promising Path to Student Safety at School: The Safe Student Scholarship**

Washington should not dictate one-size-fits-all school discipline policies to local schools. Instead, state policymakers should immediately provide school choice options to children who are direct victims of school violence or bullying, and to those students in schools with high rates of similar victimization. At the same time, as long as the provision is in federal law, state policymakers should take the

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1. U.S. Department of Education, “Unsafe School Choice Option, Non-Regulatory Guidance,” May 2004, <https://www2.ed.gov/policy/elsec/guid/unsafeschoolchoice.pdf> (accessed June 5, 2018).
  2. U.S. Department of Education, “An OIG Perspective on the Unsafe School Choice Option,” ED-OIG/S03G0015, August 2007, <https://www2.ed.gov/about/offices/list/oig/auditreports/s03g0015.pdf> (accessed June 5, 2018).
  3. Jennifer Marshall, “Safety Dance,” *World Magazine*, October 18, 2003, [https://world.wng.org/2003/10/safety\\_dance](https://world.wng.org/2003/10/safety_dance) (accessed June 5, 2018).
  4. Dan Lips, David Muhlhausen, and Don Soifer, “School Safety in Washington, D.C.: New Data for the 2007–2008 School Year,” Heritage Foundation *WebMemo* No. 2609, September 10, 2009, <https://www.heritage.org/education/report/school-safety-washington-dc-new-data-the-2007-2008-school-year>.
  5. U.S. Department of Education, “An OIG Perspective on the Unsafe School Choice Option.”
  6. Every Student Succeeds Act, Public Law 114–95 (Title VIII, Part F, Subpart 2, SEC. 8532), §7912. Unsafe School Choice Option: “Each State receiving funds under this chapter shall establish and implement a statewide policy requiring 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, or who becomes a victim of a violent criminal offense, as determined by State law, while in or on the grounds of a public elementary school or secondary school that the student attends, be allowed to attend a safe public elementary school or secondary school within the local educational agency, including a public charter school.”
  7. *Ibid.*
  8. Bill Gastic and Josephine Ann Gasiewski, “School Safety Under NCLB’s Unsafe School Choice Option,” University of Pennsylvania Graduate School of Education *Urban Education Journal*, Vol. 5, No. 2 (Spring 2008), <https://www.urbanedjournal.org/archive/volume-5-issue-2-spring-2008/school-safety-under-nclb%E2%80%99s-unsafe-school-choice-option> (accessed June 5, 2018).
  9. Jonathan Butcher, “The U.S. Department of Education Should Rescind 2014 Federal School-Discipline Guidance,” Heritage Foundation *Issue Brief* No. 4833, March 28, 2018, [https://www.heritage.org/sites/default/files/2018-03/IB4833\\_1.pdf](https://www.heritage.org/sites/default/files/2018-03/IB4833_1.pdf).
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USCO seriously, and ensure that parents know they have the ability to transfer their child to another school in the event their child is unsafe.

School choice options have often been established in states across the country to serve children with the most pressing circumstances: those from low-income families, in foster care, assigned to failing schools, and with special needs. While all parents should be able to choose schools that are the right fit for their children, as state policymakers work to expand education choice options, they should immediately extend education savings accounts, vouchers, and tax-credit scholarships to children in unsafe schools or who have been victims of violence.

Such “safe student” scholarships would do far more to ensure the safety and well-being of children—which is often the top priority of parents when choosing a school—than misguided federal mandates and policies.<sup>10</sup> If this country is to get serious about school safety, school choice must be at the top of the list.

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10. Thomas Stewart, Patrick J. Wolf, Stephen Q. Cornman, and Kenann McKenzie-Thompson, “Satisfied, Optimistic, Yet Concerned: Parent Voices on the Third Year of the DC Opportunity Scholarship Program,” Georgetown University Public Policy Institute, School Choice Demonstration Project Report No. 0702, December 2007, <http://www.uaedreform.org/wp-content/uploads/PSV3.pdf> (accessed June 5, 2018).