

The Idaho State Board of Education has approved an operational definition of a “persistently dangerous” school for purposes of complying with the No Child Left Behind Act (NCLB), and definitions of violent criminal offenses.

DEFINITION OF PERSISTENTLY DANGEROUS SCHOOL

In the context of NCLB, an Idaho public elementary or secondary school is considered to be persistently dangerous if it meets the following criteria:

In each of three consecutive years, there is one instance of:

Homicide
Sexual offense
Kidnapping

or the school exceeds an expulsion or student conviction rate of:

1% of the student body

or

3 students, whichever number is greater, for violent criminal offenses or for violations of federal or state gun free schools requirements on school property or at school sponsored events while school is in session.

For the purpose of this definition, a “violent criminal offense” is defined as conduct which could be charged as a felony or misdemeanor involving the threat of or actual physical injury, a sexual offense, homicide, rape, robbery, aggravated assault, aggravated battery, stalking, first degree kidnapping or aggravated arson.

DEFINITIONS OF VIOLENT CRIMINAL OFFENSES

The definitions of most violent offenses, such as homicide and rape, are commonly understood and do not need further clarification. Other terms, such as aggravated assault, aggravated battery, and robbery, are subject to individual state definitions and may be misapplied by those not familiar with their legal definitions. Therefore, for purposes of the Unsafe School Choice Options program, the following definitions taken from Idaho Code shall apply:

1. **Aggravated Assault.** An aggravated assault is an assault with a deadly weapon or instrument, without the intent to kill, or an assault by any means or force likely to produce great bodily harm. Idaho Code § 18-905.
2. **Aggravated Battery.** An aggravated battery is a battery in which a person: (a) causes great bodily harm, permanent disability, or permanent disfigurement; or (b) uses a deadly weapon or instrument; or (c) uses any vitriol, corrosive acid, or a caustic chemical of any nature; or (d) uses any poison or other noxious or destructive substance or liquid; or (e) upon the person of a pregnant female, causes great bodily harm, permanent disability, or permanent disfigurement to an embryo or fetus. Idaho Code § 18-907.
3. **Robbery.** Robbery is the felonious taking of personal property in the possession of another, from his person or immediate presence, and against his will, accomplished by means of force or fear. Idaho Code § 18-6501. (Note: Robbery differs from theft because of the physical presence of the victim and the force or fear component involved in the perpetrator taking the property from the victim against his will.)
4. **Homicide.** The unlawful killing of a human being.

5. Threat of or Actual Physical Injury. To express an intent, through word or action, to inflict harm upon another’s person, coupled with the apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. Idaho Code § 18-901.
6. Aggravated Arson. Burning or damaging, by fire or explosion, a structure or real or personal property, resulting, directly or indirectly, in great bodily harm, permanent disability, permanent disfigurement, or death of any person, regardless of intent or lack of intent to cause such harm. Idaho Code § 18-802.
7. Kidnapping-First Degree. Any kidnapping committed for the purpose of: (a) obtaining money, property, or another thing of value for the return or disposition of such person; (b) raping or committing the infamous crime against nature; (c) committing serious bodily injury upon the person kidnapped; (d) committing any lewd and lascivious act upon any child under the age of 16. Idaho Code § 18-4502.
8. Stalking. Any person who willfully, maliciously, and repeatedly follows or harasses another person. Idaho Code § 18-7905.
9. Sex Offense. Rape, crime against nature, forcible sexual penetration by use of foreign object, sexual abuse of a child under the age of 16, ritualized abuse of a child, sexual exploitation of a child. Lewd conduct with a minor child under 16, or sexual battery of a minor child 16 or 17 years of age.

COMPLIANCE WITH PERSISTENTLY DANGEROUS SCHOOL DEFINITION

As required by the State Department of Education, this district, on an annual basis, will report all incidents that meet the definition of “violent criminal offense”; will comply with all requirements of the State Department of Education in enforcing the Unsafe School Choice Policy, pursuant to NCLB; and will allow a student attending a persistently dangerous elementary or secondary school, or who is a victim of a violent criminal offense, to attend a safe public elementary or secondary school in the district, including charter schools.



LEGAL REFERENCE:

No Child Left Behind Act, Section 9532
Idaho State Board of Education, Minutes from June 27, 2003, meeting

ADOPTED: June 8, 2004