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0606 Legislative Task Force to Study School Discipline



Report to the Colorado General Assembly

Legislative Task Force to Study School Discipline

Prepared by

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Legislative Task Force to Study School Discipline

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December 2011

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December 2011

To Members of the Sixty-eighth General Assembly:

Submitted herewith is the final report of the Legislative Task Force to Study School Discipline. This task force was created pursuant to Senate Bill 11-133. The purpose of this task force is to discuss the interaction of school discipline practices with the juvenile justice system.

At its meeting on November 8, 2011, the Legislative Council reviewed the summary report of this committee. A motion to forward this report and the bills therein for consideration in the 2012 session was approved.

Sincerely,

/s/ Senator Brandon Shaffer
Chairman

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This report is also available on line at:

www.Colorado.gov/LCS/SchoolDisciplineTF

Task Force Charge

Pursuant to Senate Bill 11-133, the Legislative Task Force to Study School Discipline was required to hold at least four public meetings during the 2011 interim. Additional public meetings were permitted to be held at the discretion of the chair. At the meetings, the task force was required to take public testimony on and discuss the following topics:

- current school discipline practices and statutes concerning zero-tolerance practices in Colorado schools;
- the use of law enforcement tickets, arrests, and other juvenile justice sanctions for school-based behaviors in elementary and secondary public schools in Colorado; and
- the interaction of school discipline practices with the juvenile justice system in Colorado.

The task force was also permitted to solicit and receive written comments from members of the public.

In addition, the task force was required to review any available, nonidentifying Colorado data collected by the Department of Education, school districts, or law enforcement agencies in studying issues relating to zero-tolerance laws and practices and the use of juvenile justice sanctions for school-based adolescent behaviors. The task force was also permitted to solicit information from the National Conference of State Legislatures, other national research organizations, and other states or organizations that studied or introduced legislation concerning evidence-based practices for addressing school discipline issues.

The task force consisted of three Senators, three Representatives, and ten nonvoting members of the public. Each member of the public represented a different stakeholder group, including school districts, teachers and administrators, parents, law enforcement agencies, district attorneys, criminal defense attorneys, and child advocate organizations.

Task Force Activities

The Legislative Task Force to Study School Discipline met six times during the 2011 interim. Task force meetings were devoted to discussions of the administration of school conduct and discipline codes and reported data, options for sharing discipline-related data among various departments, victims' rights, the role of school resource officers (SROs) and other law enforcement agencies when responding to school-based disciplinary or legal offenses, and legislation in other states addressing school discipline issues. The task force heard testimony from agencies of state and local governments, law enforcement, parents of students, education officials and teachers' representatives, restorative justice practitioners, district attorneys, criminal defense organizations, and the Colorado Commission on Criminal and Juvenile Justice. In addition, the task force heard regular testimony from a student advisory group. An opportunity for public testimony was provided at each meeting.

One bill was drafted at the request of the task force, and the task force ultimately recommended one bill, Bill A, to be forwarded to the Legislative Council.



Zero-Tolerance Policies

"Zero-tolerance policies" are generally defined as discipline policies that prescribe a particular punishment, such as suspension or expulsion, for certain misconduct. Federal and state law mandate expulsion for a student who is determined to have brought or possessed a firearm on school grounds, and Colorado law also mandates expulsion for several other offenses.

The task force was briefed by various organizations, such as the Advancement Project, the National Association for the Advancement of Colored People, the National Conference of State Legislatures, the Education Commission of the States, and Legislative Council Staff, concerning the history of zero-tolerance policies at the state and federal levels. Information concerning legislation proposed in other states addressing the issue of zero-tolerance policies and possible ways to increase discretion was included in several presentations. The Colorado Department of Education (CDE), the Colorado Education Association, and the Colorado Association of School Executives provided additional detail concerning the administration of zero-tolerance policies in Colorado schools.

Federal law. A zero-tolerance policy regarding the possession of firearms in schools is mandated by the federal Gun-Free Schools Act (GFSA). Originally enacted in 1994, the GFSA was amended and reenacted as part of the No Child Left Behind Act of 2001. In its original form, the law required school districts to mandate expulsion for at least one year of any student who brought a weapon to school or who was in possession of a weapon at school.

In its current amended form, states that receive federal funds under the Elementary and Secondary Education Act must enact a state law requiring school districts to expel, for at least one year, any student who brings a firearm to school or who possesses a firearm on school grounds. School events and activities are considered to be school grounds.

The GFSA does not apply to firearms that are lawfully stored inside a locked vehicle on school property, or to firearms used in activities that are approved and authorized by the school, provided that appropriate safety measures are in place. Furthermore, the act permits the chief administrative officer of a school district to modify an expulsion for a student on a case-by-case basis, if such modification is explained in writing. The school district may also provide expelled students with an alternative educational setting.

The GFSA requires school districts to report, on an annual basis, information that includes:

- an assurance that the school district is in compliance with the state expulsion law; and
- a description of the circumstances surrounding any expulsions imposed under the state law, including:
 - the name of the school concerned;
 - the number of students expelled from the school; and
 - the type of firearms involved.

In addition, school districts are required to refer any student who violates the policy to the criminal justice or juvenile delinquency system. The task force showed considerable interest in differentiating between referrals to law enforcement that were mandated by state or federal law and those that were not. Language in Bill A stipulates that school conduct and discipline codes must include criteria distinguishing minor violations from behavior that will result in the referral of an offending student to a law enforcement agency.



State law. Schools may suspend, expel, or deny admission to students in certain circumstances. However, the task force was most interested in circumstances where state law left little or no discretion as to the punishment.

Under current state law, a school principal, or his or her designee, *must* suspend a student for serious violations in a school building or on school property, unless expulsion is mandatory. Expulsion is mandatory for the following violations:

- carrying, bringing, using, or possessing a dangerous weapon without the authorization of the school or the school district;
- selling a drug or controlled substance; or
- committing an act which if committed by an adult would be robbery or assault (excluding third degree assault).

State law defines a "dangerous weapon" as:

- a firearm, whether loaded or unloaded;
- any pellet or BB gun or other device, whether operational or not, designed to propel projectiles by spring action or by compressed air;
- a fixed-blade knife with a blade longer than three inches in length or a spring-loaded knife or pocket knife with a blade longer than three and one-half inches; or
- any object, device, instrument, material, or substance, whether animate or inanimate, used or intended to be used to inflict death or serious bodily injury.

If a student discovers that he or she has carried, brought, or is in possession of a dangerous weapon and notifies a teacher, administrator, or other authorized person in the school district as soon as possible and delivers the weapon to such a person, the student is not subject to mandatory expulsion.

Several organizations and witnesses expressed concern that zero-tolerance policies may result in punishments that are not age-appropriate or that are disproportionate to the offense involved. In addition, the task force discussed data concerning whether non-white students are disciplined more harshly or more frequently than their white peers. Finally, the task force discussed whether involvement in the juvenile justice system or expulsion would provoke a student to commit more offenses or prevent the student from advancing in school. As such, the task force recommends that Bill A include provisions to give school administrators guided discretion when designing and enforcing school conduct and discipline codes. Specifically, the bill limits infractions for which expulsion is mandatory to incidents in which a student is determined to have brought or possessed a firearm on school grounds and requires school district boards of education to implement a graduated set of age-appropriate responses to student misconduct that are fair and proportionate in relation to a student's individual behavior.

Definitions

Throughout the task force's discussions, several task force members and presenters expressed interest in clarifying or supplementing certain statutory terms. Such terms included "referral to law enforcement," "suspension," "expulsion," "defiance," "disobedient," and "habitually disruptive student," among others. Conversation on this topic focused on the relationship between definitions and data reporting, and on the possibility that schools across the state may report disciplinary incidents differently or use different terms. Provisions of Bill A define the following disciplinary-related terms:



Action taken. Current state law requires each school to report the number of disciplinary actions it took during an academic year. Disciplinary actions include:

- in-school suspension;
- out-of-school suspension;
- classroom removal;
- expulsion;
- referral to a law enforcement agency; and
- any other form of discipline as identified by board policy.

Bill A adds "restorative justice" to the list of actions taken and moves this language to a newly created Section 22-32-146, C.R.S.

Bullying. Language in Bill A concerning school conduct and discipline codes mirrors the definition of "bullying" enacted by House Bill 11-1254, which states that "bullying" means any written or verbal expression, or physical or electronic act or gesture, or a pattern thereof, that is intended to coerce, intimidate, or cause any physical, mental, or emotional harm to any student. Included within this definition is a statement that bullying is prohibited against any student for any reason, including behavior that is directed toward a student on the basis of his or her academic performance or against whom federal and state laws prohibit discrimination. Language in Bill A and in current law states that the definition of bullying is not intended to infringe upon any right guaranteed to any person by the First Amendment to the U.S. Constitution or to prevent the expression of any religious, political, or philosophical views.

Dangerous weapon. Under current state law, a "dangerous weapon" is defined as:

- any firearm, whether loaded or unloaded;
- any pellet or BB gun or other device, whether operational or not, designed to propel projectiles by spring action or by compressed air;
- a fixed-blade knife with a blade longer than three inches;
- a spring-loaded knife or pocket knife with a blade longer than three and one-half inches;
- or
- any object, device, instrument, material, or substance, whether animate or inanimate, used or intended to be used to inflict death or serious bodily injury.

Bill A maintains the current definition of dangerous weapon, but removes the phrase "whether loaded or unloaded" referring to firearms. Bill A relocates this definition of dangerous weapon to Section 22-33-102, C.R.S.

Expulsion. Under current state law, the district board of education may expel a student for a violation of any of the grounds for suspension. State law does not currently define a minimum or maximum time frame for an expulsion. Bill A defines "expulsion" as the prohibition of a student by a school administrator or by a local board of education from being present on school grounds for:

- the remainder of the academic term in which the offense occurred;
- the remainder of the academic year; or
- the duration of the academic term immediately following the academic term in which the offense occurred.

The bill encourages school district boards of education to use out-of-school suspensions and expulsions only for the most serious offenses.



Habitually disruptive student. Under current state law, a school principal, or his or her designee, may suspend or expel a student who is declared to be a "habitually disruptive student." A habitually disruptive student is defined as a child who has been suspended for the reasons listed below at least three times during the course of a school year:

- continued willful disobedience or open and persistent defiance of proper authority;
- willful destruction or defacement of school property;
- behavior on or off school property that is detrimental to the welfare or safety of other students or of school personnel, including behavior that creates a threat of physical harm, unless the actions creating the threat are a manifestation of the student's disability; or
- other serious violations.

The current definition of habitually disruptive student indicates that the student has caused a material and substantial disruption in the classroom, on school grounds, in a school vehicle, or at school activities or events, because of behavior that was initiated, willful, and overt on his or her part.

Bill A's definition of "habitually disruptive student" is identical to the current definition, except that the bill defines "other serious violations" as committing one of the following offenses on school grounds, in a school vehicle, or at a school activity or sanctioned event:

- possessing a dangerous weapon without authorization from the school or from the school district;
- selling a drug or controlled substance; or
- committing an act that, if committed by an adult, would be considered robbery, sexual assault, domestic violence, or assault (excluding third degree assault).

Under the provisions of Bill A, a school administrator may not declare a student to be a habitually disruptive student until the school has developed an assessment of and a remedial discipline plan for the student. The school must develop the assessment after the second suspension of the student for a material and substantial disruption. Bill A also relocates the definition of habitually disruptive student to a new Section 22-33-112, C.R.S.

In-school suspension. Under current state law, a total term of suspension may not exceed 25 school days. "In-school suspension" is defined as a period of time during which the student is suspended from participation in regular school activities but remains in the school environment and continues to receive educational instruction, supervision, and discipline. Bill A maintains this definition.

Out-of-school suspension. Although current state law contains definitions of "in-school suspension" and "in-home suspension," the term "out-of-school suspension" is not defined. Bill A defines out-of-school suspension to mean a period of time during which a student is prohibited by a school administration or by a local board of education from being present on school grounds. Current state law limits a total term of suspension to 25 days. Bill A encourages school district boards of education to use out-of-school suspensions and expulsions only for the most serious offenses.



Referral to a law enforcement agency. Although current law does not define "referral to a law enforcement agency," the CDE assembled a group of local practitioners to agree on a definition for this term. The group defined referral to a law enforcement agency as a situation in which:

- a student was referred to a school resource officer;
- a police report was filed; or
- police were called, but no report was filed.

Bill A defines referral to a law enforcement agency as a communication between a school administrator, teacher, or other school employee and a law enforcement agency when the communication:

- is initiated by a school employee; and
- concerns behavior by a student that the school employee believes may constitute a criminal offense.

The bill specifies that referral to a law enforcement agency does not mean routine or incidental communication between a school employee and a law enforcement officer who, as part of his or her professional duties, serves full-time or part-time as an on-site school resource officer.

Alternatives to Traditional Disciplinary Measures

The task force heard a variety of information concerning alternatives to traditional disciplinary measures such as suspension and expulsion. Specifically, the task force discussed Positive Behavioral Interventions and Supports (PBIS) and restorative justice practices.

Positive Behavioral Intervention and Supports. PBIS is a voluntary program offered by approximately 50 percent of the schools in Colorado. PBIS establishes the social culture and behavioral supports needed for a school to be an effective learning environment for all students. Some evidence-based features of PBIS include:

- defining and teaching positive social expectations;
- acknowledging positive behavior;
- arranging consistent consequences for problem behavior; and
- using a continuum of intensive, individual intervention supports.

According to the CDE, the mission of PBIS is to support and assist school districts in establishing and maintaining effective school environments that maximize the academic achievement and social emotional competence of all students in Colorado. The CDE stated the following objectives of PBIS:

- increasing the fidelity of implementation of universal PBIS in 80 percent of Colorado schools;
- decreasing the rates of suspension and expulsion of all students in the state; and
- decreasing the incidence of bullying behaviors across the state.



Representatives from the CDE shared information concerning the goals of and data related to PBIS. According to the CDE, in the 2010-11 academic year, data indicated that 64 percent of schools in Colorado implemented PBIS with fidelity. PBIS is completely voluntary and data suggests that there are two groups who use PBIS: schools that need to address problems, and schools that are doing well and are driven to use evidence-based practices.

The CDE also presented on racial disparities related to the use of disciplinary actions and discussed the rate of disciplinary actions directed at students with disabilities. The task force heard information on alternatives to suspension, including graduated discipline and preventative and instructional strategies. In response to this presentation, provisions in Bill A encourage more schools to adopt policies that promote positive behavior and interventions.

Restorative justice. Restorative justice practices generally seek to repair the harm to the victim and the school community caused by a student's misconduct. Under current state law, schools are encouraged to develop and utilize restorative justice practices as part of the normal disciplinary program of each school. Restorative justice practices may include victim-initiated victim-offender conferences that may be attended voluntarily by the victim, a victim advocate, the offender, school members, and supporters of the victim and the offender. The outcome of such practices may include an agreement signed by all participants that specifies actions such as apologies, community service, restitution, restoration, and counseling.

Several restorative justice practitioners from Denver Public Schools, ReSolutionaries, Inc., the Youth Transformation Center, the Longmont Community Justice Partnership, and the Colorado Restorative Justice Council explained how restorative justice practices have been implemented in schools and provided various measures of success related to these practices. The panel indicated that 61,000 children in Colorado are being suspended, expelled, or referred to law enforcement each year, while nearly 15,000 youth in the state drop out of school each year. According to the panel, restorative justice provides lifelong skills in resolving conflict before it exacerbates. The task force heard from members of the panel about their personal experiences with restorative justice.

The task force also received information on restorative justice programs in Denver Public Schools (DPS). DPS first implemented its Restorative Justice Project in early 2005 at selected sites in northeast Denver. The project was supported entirely with district funds. Following the success of the pilot programs, the district received additional funds in 2006 from a CDE Expelled and At-Risk Student Services grant. The program continued to expand, serving six middle schools and one high school in the 2009-10 academic year. Each of the schools is assigned a full-time restorative justice coordinator who is responsible for attempting to divert cases that may otherwise end in student suspension or arrest. The operation of the program varies among schools.

In response to this presentation, the task force recommended that provisions of Bill A encourage the use of restorative justice and the training of teachers and school employees in disciplinary alternatives. In addition, the task force agreed to include restorative justice as one possible response to school misconduct and as an "action taken" required to be reported by schools.

Florida legislation. The task force heard information on 2009 Florida legislation concerning restorative justice and alternative policies to zero-tolerance. The law specifies that zero-tolerance policies do not require the reporting of petty acts to law enforcement and that school districts are encouraged to use alternatives to expulsion unless a threat of safety is exposed.



Based on a similar provision in the Florida legislation, the task force added a provision in Bill A requiring a school's conduct and discipline code to specify criteria distinguishing minor violations of the code from behavior that will result in the referral of an offending student to a law enforcement agency.

In- and out-of-school suspensions. The task force discussed in- and out-of-school suspensions in schools. The task force discussed the impact of a suspension on a student's future academic performance and general welfare. Discussion also included whether a student that was suspended should be allowed to remain on campus for an in-school suspension. The task force spoke about discretion at the administrative level in schools concerning in- and out-of school suspensions and the need to discriminate between suspensions and expulsions in law. The task force also discussed whether a student should be allowed to get credit for school work that is made up during a period of suspension.

Based on the task force's discussions, Bill A encourages school district boards of education to use out-of-school suspensions and expulsions only for the most serious offenses. The bill also defines out-of-school suspension and expulsion and specifies that when a student is suspended, schools must provide an opportunity for the student to make up school work during the suspension for full academic credit.

Victims' Rights

A panel of representatives from the Colorado Coalition Against Sexual Assault, the Colorado Coalition Against Domestic Violence, and the Rocky Mountain Victim Law Center presented information to the task force concerning the prevalence of domestic violence and sexual harassment in schools.

The Colorado Coalition Against Sexual Assault (CCASA) presented information on sexual harassment in schools and its effect on victims, such as absenteeism, decreased quality of school performance, loss of friends, and truancy. The CCASA indicated that victims of sexual assault are 26 times more likely to abuse drugs and 13 times more likely to abuse alcohol.

The Colorado Coalition Against Domestic Violence (CCADV) presented on the prevalence of teen dating violence and its effect on victims. The CCADV indicated that teen victims of physical violence are more likely than their nonabused peers to smoke, use drugs, engage in unhealthy diet behaviors, engage in risky sexual behaviors, and attempt or consider suicide. The CCADV recommended that school responses should include explicit policies against relationship abuse and the implementation of a comprehensive policy addressing teen dating violence.

Representatives from the Rocky Mountain Victim Law Center explained school obligations under Colorado law and under Title IX of the federal Education Amendments. Specifically, they spoke about the mandatory reporting obligation described in current state law. The center noted that schools are required to report abuse, whether the abuse occurs at the hands of an adult or of another peer, and stressed the importance of a multi-disciplinary approach.

Finally, a representative from Jensen Public Affairs spoke about her work with a group of people who have been discussing "sexting" and noted that the penalties for sexting could be very serious.



The task force approved language in Bill A requiring schools to include within their codes of conduct a specific policy concerning the prevention of sexual assault and domestic violence. In addition, Bill A requires schools to report the commission of an act on school property that, if committed by an adult, would be considered domestic violence or sexual assault.

School Resource Officers

Background. Pursuant to Senate Bill 11-133, the task force was directed to consider the use of law enforcement on school grounds and at school activities. Many members of the task force expressed concern that students who are arrested or ticketed in school face serious consequences not only within the justice system, but also when applying for college, the military, or a job. One national study reviewed by task force members states that schools may be "inappropriately adopting law enforcement strategies that are leading students unnecessarily into the juvenile or criminal justice systems."¹

When a student is referred to police while attending school, competing interests may arise between administrators and law enforcement. Responses to student misbehavior involve weighing legitimate public safety interests with the need to educate students and to help modify disruptive behavior. In an effort to better understand and address student behavior that affects public safety, law enforcement officials may be directly assigned to schools. These officials are referred to as school resource officers (SROs). SRO assignments are made through agreements between a school or district and a local law enforcement agency, and are usually performed as community outreach from law enforcement. These programs are generally unfunded.

Role of SROs. To provide background for its conversations on the appropriate role of law enforcement in schools, the task force heard several presentations from stakeholders in the SRO community. Members heard that schools in Colorado are not required to have an SRO, and that the role of SROs at schools varies across the state. An SRO can work at a school full-time, provide periodic visits to the school, or merely remain informed and react to the day-to-day activity at a school. Testimony provided to the task force from the Colorado Association of School Resource Officers (CASRO) and from individual SROs indicates that in addition to providing law enforcement services, SROs may teach courses, provide counseling, or help arbitrate conflicts.

Currently, SRO agreements between law enforcement and schools are left to the local discretion of the parties involved. There is no statewide protocol. As such, the task force heard several SRO-related presentations concerning SRO techniques and strategic goals within schools. Members also considered suggestions concerning the development of a uniform protocol for SROs. For example, the task force heard about initiatives discussed at the annual safe schools conference sponsored by CASRO. CASRO is part of the National Association of SROs (NASRO), and sponsors quarterly training sessions for SROs throughout the year, but only at a regional level and not in all regions. Currently, these sessions are not mandatory for SROs.

Concerns. Representatives from CASRO discussed the amount of time it may take for an SRO to learn his or her role at an assigned school, and how the current lack of statewide protocol and training may contribute to this time. In particular, the task force learned that law enforcement officers may be accustomed to punishing an offender, whereas schools may also wish to rely on an array of preventative and alternative strategies to deal with misbehavior, some of which are

¹"Education on Lockdown: The Schoolhouse to Jailhouse Track," Advancement Project: March 2005 (9).



addressed later in this report. Some task force members and witnesses expressed concern that SROs may be punitive or adversarial, whereas others expressed support for the ability of SROs to be role models and to teach students how to mediate conflicts. In addition, a representative from CDE explained that administrators may involve law enforcement to protect themselves from liability. The task force explored the role that SROs might play in resolving these issues.

Training. At the task force meetings, representatives of CASRO expressed interest in developing a basic course in SRO training. One presenter suggested that this course be conducted through the Police Officer Standards and Training (P.O.S.T.) certification board. This proposal might rely upon volunteer trainers donated from local agencies who would work with CASRO in developing an SRO-specific curriculum and possibly volunteer as trainers. The proposal would likely work in conjunction with CDE and with the Colorado School Safety Resource Center. Funding for a Colorado-developed course could be derived from:

- a new appropriation from the state budget;
- an increase to an existing department budget; or
- authorizing a percentage of an existing budget to be used for training development.

As a result of conversations concerning the importance of SRO training and of ensuring that the role of an SRO at the school is clear and beneficial, the task force recommended specific provisions in Bill A addressing the use of SROs in schools. In addition, Bill A requires SROs to receive training in a curriculum designed by the P.O.S.T. board.

Bill A directs the P.O.S.T. board to create a training curriculum on or before October 1, 2012. On or after October 1, 2013, schools may only accept SRO assignments of officers who have successfully completed the SRO training provided by the P.O.S.T. board. The board will solicit relevant stakeholders specified in the bill to finalize the SRO training. Finally, in an effort to improve communication between law enforcement and schools, Bill A requires SROs to notify the principal of a school within 30 days of arresting or issuing a summons to a student at that school.

Data Sharing

School reporting requirements. Colorado law requires each school to report the number of conduct and discipline code violations related to the following incidents that occur on school grounds, in school vehicles, or at school activities or sanctioned events:

- a student who, without authorization, carries, brings, uses, or possesses a dangerous weapon;
- incidents involving the use of or possession of alcohol;
- incidents involving the use, possession, or sale of a drug or controlled substance;
- incidents involving the use or possession of tobacco products;
- a student who is willfully disobedient or openly and persistently defiant or who repeatedly interferes with the school's ability to provide educational opportunities to and a safe environment for other students;
- commission of an act that, if committed by an adult, would be considered first degree assault, second degree assault, or vehicular assault;
- behavior that is detrimental to the welfare or safety of other students or of school personnel, including but not limited to bullying;
- willful destruction or defacement of school property;



- commission of an act that, if committed by an adult, would be considered third degree assault or disorderly conduct (except for disorderly conduct involving firearms or other deadly weapons);
- commission of an act on school grounds that, if committed by an adult, would be considered robbery; and
- other violations of the code of conduct and discipline that resulted in documentation of the conduct in a student's record.

Bill A adds the following two types of incidents to those required to be reported by schools and relocates this language to a newly created Section 22-32-146, C.R.S.:

- commission of an act on school property that, if committed by an adult, would be considered sexual assault; and
- commission of an act on school property that, if committed by an adult, would be considered domestic violence.

State law also specifies that schools must report the action taken in response to each of the types incidents it reports. Disciplinary actions include:

- in-school suspension;
- out-of-school suspension;
- classroom removal;
- expulsion;
- referral to a law enforcement agency; and
- any other form of discipline as identified by board policy.

Bill A adds "restorative justice" to the list of actions taken and moves this language to the newly created Section 22-32-146, C.R.S.

At the request of the task force, the CDE presented information concerning trends in school-reported data over time and what this data indicates about schools' adherence to zero-tolerance policies. For the 2009-10 academic year, the CDE stated that there were 103,277 incidents, 7,564 of which (or 7 percent) were referred to law enforcement. During this same time period there were:

- 5,048 incidents involving drugs, 43 percent of which were referred to law enforcement;
- 803 incidents involving dangerous weapons, 32 percent of which were referred to law enforcement;
- 155 incidents involving first degree, second degree, or vehicular assault, 19 percent of which were referred to law enforcement; and
- 155 incidents involving robbery, 14 percent of which were referred to law enforcement.

The CDE explained that "drug incidents" include violations involving the use, possession, or sale of controlled substances. However, expulsion is only mandated for the sale of controlled substances.

Referral to a law enforcement agency. The task force spent considerable time discussing the definition of "referral to a law enforcement agency" and the potential consequences a summons or arrest could have on a student's educational career. In response to these discussions, Bill A clarifies the definition of referral to a law enforcement agency and requires a school resource officer who arrests or issues a summons to a student to notify the principal of the school of his or her actions within 30 days. The bill also directs schools to specifically identify in its reports each conduct code violation that resulted in a referral to a law enforcement agency.



In response to task force interest in the potential consequences of issuing summonses or arrest warrants for school-based behavior, Legislative Council Staff presented an overview of available data concerning referrals to law enforcement, dropout rates, and juvenile delinquency filings over the past nine years. In a representative sample of nine school districts, Legislative Council Staff found no clear correlation between the percentage of incidents that a school district refers to law enforcement and its dropout rate. However, more research into the subject would be needed. In addition, because information concerning the outcome of school-based referrals to law enforcement is not currently available, it is difficult to assess how school discipline policies may interact with the juvenile justice system.

Data-sharing projects. In discussing the data that is currently available concerning the rate of disciplinary incidents at schools and the responses to those incidents, the task force sought a method of tracking incidents that begin at school through law enforcement agencies and the juvenile justice system in order to assess the long-term effects of zero-tolerance policies. Particular attention was paid to the lack of information currently available concerning the outcome of law enforcement referrals.

The task force showed considerable interest in a 2011 study by the Council on State Governments and the Texas A&M Public Policy Research Institute concerning the long-term effects of involvement in the school discipline system for secondary students in Texas public schools.² In order to discuss whether such a project would be feasible in Colorado, the task force sought information on Colorado-based studies to address data-sharing issues, such as:

- the Colorado Unique Personal Identification Project (CUPID) administered by the Governor's Office of Information Technology;
- the Colorado Children Youth Information Sharing Collaborative (CCYIS), a multi-agency, federally funded initiative to study information sharing at the state and local level; and
- Colorado Trails, the statewide case management system for Child Welfare and the Division of Youth Corrections.

The task force invited representatives from the following agencies to discuss information that is currently tracked in state databases and the potential of expanding one of the studies listed above to include information related to school discipline:

- the Governor's Office of Information Technology;
- the Colorado Department of Education;
- the Colorado Judicial Branch;
- the Colorado Department of Public Safety;
- the Center for Network Development, a not-for-profit training and technical assistance organization working with the CCYIS;
- the Colorado Department of Human Services;
- the Arapahoe County Department of Human Services; and
- the Arapahoe County Attorney's Office.

²Fabelo, Tony, Michael Thompson, Martha Plotkin, *et al.*, "Breaking Schools' Rules: A Statewide Study of How School Discipline Relates to Students' Success and Juvenile Justice Involvement," The Council of State Governments Justice Center and the Public Policy Research Institute at Texas A&M University (2011).



The representatives provided an overview of the data that is currently tracked and discussed the technological, legal, and financial considerations involved in a broad data-sharing initiative on the subject of school discipline. For example, two federal laws prohibit the sharing of certain educational- and health-related data.³

Information sharing between law enforcement and schools. In light of the task force's interest in the relationship between school discipline policies and law enforcement, the CDE provided an overview of state law pertaining to information sharing between schools, law enforcement agencies, and the justice system.

The federal Gun-Free Schools Act requires school districts to refer any student who brings a firearm to school or who possesses a firearm on school grounds to the criminal justice or juvenile delinquency system. Pursuant to state law, schools are also required to report criminal offenses committed against teachers and school employees by a student to a district attorney or to another appropriate law enforcement agency. In addition, criminal justice agencies are authorized to request and receive the disciplinary and attendance records of students under criminal investigation. The criminal justice agency receiving such information may only use it for the performance of its legal duties and must maintain its confidentiality.

Law enforcement agencies must notify schools when certain criminal charges or delinquency petitions are filed against juveniles. Whenever a petition filed in juvenile court alleges that a juvenile between the ages of 12 and 18 years has committed an offense that would constitute unlawful sexual behavior or a crime of violence, if committed by an adult, or whenever charges are filed in district court alleging that a juvenile has committed such an offense, basic identifying information and the details of the alleged delinquent act or offense must be provided immediately to the school district in which the juvenile is enrolled. Upon receiving such information, the school district board of education, or its designee, must determine whether the student has exhibited behavior that is detrimental to the safety, welfare, and morals of other students or of school personnel. The board must also determine whether educating the student in the school may disrupt the school's learning environment, provide a negative example for other students, or create a dangerous and unsafe environment. Upon making a determination that the student should not be educated in the school, the board may suspend or expel the student involved. Information made available to the school district but not otherwise available to the public must be kept confidential.

State law also requires prosecuting attorneys to notify a juvenile's school or school district upon filing a petition in juvenile court involving the following criminal offenses:

- menacing;
- harassment;
- fourth degree arson;
- theft;
- aggravated motor vehicle theft;
- criminal mischief;
- defacing property;
- disorderly conduct;
- hazing; or
- possession of a handgun by a juvenile.

³The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g; 34 C.F.R. Part 99 and the Health Insurance Portability and Accountability Act (HIPAA), 42 U.S.C. § 201, *et seq.*, 42 C.F.R. Parts 160 and 164.



Within three business days of filing a petition in juvenile court involving one of the above offenses, the prosecuting attorney must make a good faith effort to notify the juvenile's school principal or district superintendent.

Finally, the following law enforcement records are open to inspection by a school principal, superintendent, or designee at a school where a student is or will be enrolled:

- court;
- arrest and criminal;
- probation;
- law enforcement; and
- parole.

School personnel may only use such records in the performance of their legal duties and must maintain the records' confidentiality.

Student Advisory Group

A student advisory group organized by Padres y Jovenes Unidos presented to the task force on several occasions. The group, whose speakers varied over the course of the interim, presented case studies and personal experiences in an effort to demonstrate the practical effects of school disciplinary measures. The student advisory group included in some of their presentations the testimony of parents who are seeking legal action due to what they term to be excessive discipline of their children. The student advisory group argued that zero-tolerance policies have resulted in severe punishments for infractions that would have carried less severe punishments in the past. The group advocated for the use of guided discretion in school discipline policies and for an increase in publicly available data concerning school discipline incidents. Provisions in Bill A address guided discretion and data sharing.



Summary of Recommendations

As a result of its deliberations, the Legislative Task Force to Study School Discipline recommends one bill for consideration in the 2012 legislative session.

Bill A — Discipline in Public Schools

Bill A alters an array of disciplinary policies in Colorado schools. Specifically, the bill:

- limits infractions for which expulsion is mandatory to incidents in which a student is determined to have brought or possessed a firearm on school grounds;
- requires school conduct and discipline codes to distinguish minor code violations from behavior that will result in the referral of an offending student to a law enforcement agency;
- requires school district boards of education to implement a graduated set of age-appropriate responses to student misconduct that are fair and proportionate in relation to a student's individual behavior;
- directs the Peace Officer Standards and Training (P.O.S.T.) Board to provide training for school resource officers, and specifies that schools may not accept the assignment of an officer who has not completed the P.O.S.T. training after October 1, 2013;
- alters data-collection and data-sharing processes among law enforcement agencies, schools, and the CDE; and
- defines a number of statutory terms, including "suspension," "in-school suspension," "out-of-school suspension," "expulsion," "referral to a law enforcement agency," and "habitually disruptive student."

The bill makes several suggestions for school district boards of education to consider when creating and enforcing school conduct and discipline codes. To the extent practicable, the bill encourages schools to prioritize in-school suspensions and to limit the use of out-of-school suspensions and expulsions to incidents that involve conduct that poses a serious and credible threat. According to the provisions of the bill, when a student is suspended, schools must provide an opportunity for the student to make up school work during the suspension for full academic credit. Also, to the extent practicable, the bill encourages schools to rely on prevention, intervention, restorative justice, peer mediation, counseling, and other approaches to address student misconduct, rather than approaches involving the arrest or issue of a summons to a student. To this end, the bill encourages local school boards to assist school employees in obtaining training in conflict resolution, disciplinary alternatives, and restorative justice. Finally, each school must require that students be familiar with the provisions of the school's conduct and discipline code.



Resource Materials

Meeting summaries are prepared for each meeting of the committee and contain all handouts provided to the committee. The summaries of meetings and attachments are available at the Division of Archives, 1313 Sherman Street, Denver (303-866-2055). The listing below contains the dates of committee meetings and the topics discussed at those meetings. Meeting summaries are also available on our website at:

www.Colorado.gov/LCS/SchoolDisciplineTF

Meeting Date and Topics Discussed

July 27, 2011

- ◆ Overview of the duties and responsibilities of the task force
- ◆ Introduction of task force members
- ◆ Introduction of the student advisory group
- ◆ Summary of current federal and state law on zero-discipline policies
- ◆ Overview of national research and trends
- ◆ Overview of Colorado research and trends

August 24, 2011

- ◆ Discussion of victims' rights
- ◆ Presentation from the Colorado School Safety Resource Center
- ◆ Presentation from Fight Crime: Invest in Kids
- ◆ Update from the Juvenile Justice Task Force of the Colorado Commission on Criminal and Juvenile Justice
- ◆ Presentation from the student advisory group
- ◆ Overview of local law enforcement
- ◆ Presentation from criminal defense and reform organizations
- ◆ Overview from the Colorado District Attorneys' Council

August 30, 2011

- ◆ Presentation from The Arc of Colorado
- ◆ Overview from the Colorado Department of Education
- ◆ Perspectives of teachers and administrators
- ◆ Presentation from school resource officers
- ◆ Overview from restorative justice practitioners
- ◆ Summary of other states' laws from the Education Commission of the States and the National Conference of State Legislatures



September 12, 2011

- ◆ Presentation on law enforcement referrals, juvenile delinquency filings, and dropout rates
- ◆ Presentation from the Judicial Branch
- ◆ Data sharing panel discussion
- ◆ Presentation from the student advisory group
- ◆ Discussion of potential legislation

September 20, 2011

- ◆ Discussion of potential legislation

October 18, 2011

- ◆ Consideration of draft legislation



**Second Regular Session
Sixty-eighth General Assembly
STATE OF COLORADO**

BILL A

LLS NO. 12-0200 Richard Sweetman x4333

SENATE BILL

SENATE SPONSORSHIP

Newell and Hudak,

HOUSE SPONSORSHIP

Nikkel and Levy, Szabo

A BILL FOR AN ACT

101 **CONCERNING DISCIPLINARY MEASURES IN PUBLIC SCHOOLS.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Legislative Task Force to Study School Discipline. The bill amends the statutory grounds for suspension or expulsion of a student to increase the discretion of school administrators and school district boards of education (local boards). The only circumstances under which expulsion remains mandatory are those that involve a student who is determined to have brought a firearm to school or possessed a firearm at

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

school. The bill defines the terms "suspension", "in-school suspension", "out-of-school suspension", and "expulsion".

The bill relocates, with substantive amendments, certain statutory provisions concerning school conduct and discipline codes (codes) and safe school reporting requirements.

Each code shall include criteria distinguishing minor code violations from behavior that will result in the referral of an offending student to a law enforcement agency. Each code shall include a specific policy concerning the prevention of sexual assault and domestic violence.

Each public school of a school district shall require each student enrolled in the public school to be familiar with the provisions of the code.

In creating and enforcing a code, each local board shall:

- Ensure that the code is designed to protect students from harm, provide opportunities for students to learn from their mistakes, foster a positive learning community, keep students in school, and implement a graduated set of age-appropriate responses to misconduct that are fair and proportionate in relation to each student's individual conduct;
- To the extent practicable, limit the use of out-of-school suspensions and expulsions to incidents that involve conduct that poses a serious and credible threat to the safety of pupils and staff; and
- To the extent practicable, use prevention, intervention, restorative justice, peer mediation, counseling, and other approaches to address student misconduct.

In creating a code, each local board shall solicit and consider input from the school district accountability committee of the school district and a local or statewide law enforcement agency.

To the extent practicable, each local board shall assist teachers and other school employees, as may be appropriate, in obtaining training in conflict resolution in and out of the classroom, disciplinary alternatives, and restorative justice for the purpose of preventing violations of the school district's code.

If a student is suspended from school, the suspending authority shall provide an opportunity for the student to make up school work during the period of suspension for full academic credit.

The report of code violations that is required of each school principal as part of the safe school reporting requirements shall specifically identify each violation that resulted in referral to a law enforcement agency.

On and after October 1, 2012, the peace officer standards and training (P.O.S.T.) board shall create and provide a training curriculum to prepare peace officers to serve as school resource officers. In creating

the training curriculum, the P.O.S.T. board shall solicit and, to the extent practicable, implement the suggestions of relevant stakeholders.

On and after October 1, 2013, neither a school administrator nor a local board shall accept the assignment of a peace officer acting in his or her official capacity as school resource officer in a public school unless the peace officer has successfully completed the school resource officer training program.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly hereby finds that a safe school is one that has a conduct and discipline code that:

(a) Defines and helps to create a learning environment that students respect;

(b) Defines acceptable norms of behavior for students;

(c) Recognizes that a disruptive student infringes on the rights of other students in the school to receive a free and appropriate education;

(d) Protects students from the violence and intimidation of bullying by setting forth clear and strict consequences for that type of behavior;

(e) Establishes policies and procedures to address behavior that poses a threat to the safety of the students or employees of the school;

(f) Establishes a system of consequences for misconduct, which system helps define the culture of the school; and

(g) Makes these consequences known by making them easily available and visible to all students.

(2) The general assembly further finds that it is important that children of school age recognize that:

(a) A safe school enhances student achievement;

(b) Respect of law and policies is an important part of a civil

1 society;

2 (c) School administrators and law enforcement officers are their
3 friends, and the laws and policies these persons enforce provide students
4 the opportunity to get a quality education; and

5 (d) They live in a country and a state that ensure them due process
6 for a fair administration of justice in their schools.

7 (3) Finally, the general assembly finds that:

8 (a) Proportionate disciplinary interventions and consequences,
9 including but not limited to in-school suspensions, provide an adequate
10 response to most conduct and discipline code violations;

11 (b) Public schools and school district boards of education should
12 use out-of-school suspensions and expulsions as disciplinary responses
13 to only the most serious offenses; and

14 (c) If a school administrator or a school district board of education
15 deems it necessary to suspend or expel a student from school, the school
16 administrator or board must consider the safety of the other students if
17 and when the student returns to the school.

18 (4) Now, therefore, the general assembly hereby declares that, in
19 creating and enforcing a school conduct and discipline code, each school
20 district board of education shall:

21 (a) Ensure that the code is designed to:

22 (I) Protect students from harm;

23 (II) Provide opportunities for students to learn from their
24 mistakes;

25 (III) Foster a positive learning community;

26 (IV) Keep students in school; and

27 (V) Implement a graduated set of age-appropriate responses to
28 misconduct that are fair and proportionate in relation to each student's

1 individual conduct;

2 (b) To the extent practicable:

3 (I) Impose proportionate disciplinary interventions and
4 consequences, including but not limited to in-school suspensions, in
5 response to student misconduct; and

6 (II) Limit the use of out-of-school suspensions and expulsions to
7 incidents that involve conduct that poses a serious and credible threat to
8 the safety of pupils and staff;

9 (c) To the extent practicable, use prevention, intervention,
10 restorative justice, peer mediation, counseling, and other approaches to
11 address student misconduct; and

12 (d) Ensure the code complies with all state and federal laws
13 concerning the education of students with disabilities, as defined in
14 section 22-20-103 (5), Colorado Revised Statutes.

15 **SECTION 2.** In Colorado Revised Statutes, 22-32-109.1 **amend**
16 (2) (a), (2) (b), and (10) as follows:

17 **22-32-109.1. Board of education - specific powers and duties**
18 **- safe schools. (2) Safe school plan.** In order to provide a learning
19 environment that is safe, conducive to the learning process, and free from
20 unnecessary disruption, following consultation with the school district
21 accountability committee and school accountability committees, parents,
22 teachers, administrators, students, student councils where available, and,
23 where appropriate, the community at large, each school district board of
24 education shall adopt and implement a safe school plan, or review and
25 revise, if necessary, any existing plans or policies already in effect, which
26 shall include, but not be limited to, the following:

27 (a) **Conduct and discipline code.** A concisely written conduct
28 and discipline code that shall be enforced uniformly, fairly, and

1 consistently for all students IN ACCORDANCE WITH THE PROVISIONS OF
2 SECTION 22-32-145 AND ALL OTHER APPLICABLE STATE AND FEDERAL
3 LAWS. Copies of the code shall be provided to each student upon
4 enrollment at the elementary, middle, JUNIOR HIGH, and high school levels
5 and shall be posted or kept on file at each public school in OF the school
6 district. ~~The code shall include, but shall not be limited to:~~
7 ADDITIONALLY, EACH PUBLIC SCHOOL OF THE SCHOOL DISTRICT SHALL
8 REQUIRE EACH STUDENT ENROLLED IN THE PUBLIC SCHOOL TO BE FAMILIAR
9 WITH THE PROVISIONS OF THE CODE.

10 (I) ~~General policies on student conduct, safety, and welfare;~~
11 (H) ~~General policies and procedures for dealing with students who~~
12 ~~cause a disruption in the classroom, on school grounds, in school~~
13 ~~vehicles, as defined in section 42-1-102 (88.5), C.R.S., or at school~~
14 ~~activities or sanctioned events, including a specific policy allowing a~~
15 ~~teacher to remove a disruptive student from his or her classroom and,~~
16 ~~upon the third such removal from a teacher's class, to remove the~~
17 ~~disruptive student from such teacher's class for the remainder of the term~~
18 ~~of the class. The general policies and procedures shall include a due~~
19 ~~process procedure, which at a minimum shall require that, as soon as~~
20 ~~possible after a removal, the teacher or the school principal shall contact~~
21 ~~the parent or legal guardian of the student to request his or her attendance~~
22 ~~at a student-teacher conference regarding the removal. A behavior plan~~
23 ~~may be developed after the first such removal from class, and shall be~~
24 ~~developed after the second such removal from class. Any policy or~~
25 ~~procedure adopted shall comply with applicable federal and state laws,~~
26 ~~including, but not limited to laws regarding students with disabilities.~~

27 (HH) ~~Provisions for the initiation of suspension or expulsion~~
28 ~~proceedings for students who qualify as habitually disruptive by causing~~

~~a disruption in the classroom, on school grounds, in school vehicles, or at school activities or sanctioned events for a third time during a single school year or calendar year;~~

~~(IV) Policies and procedures for the use of acts of reasonable and appropriate physical intervention or force in dealing with disruptive students; except that no board shall adopt a discipline code that includes provisions that are in conflict with the definition of child abuse in section 18-6-401 (1), C.R.S., and section 19-1-103 (1), C.R.S.;~~

~~(V) General policies and procedures for determining the circumstances under and the manner in which disciplinary actions, including suspension and expulsion, shall be imposed in accordance with the provisions of sections 22-33-105 and 22-33-106;~~

~~(VI) A specific policy concerning gang-related activities in the school, on school grounds, in school vehicles, or at school activities or sanctioned events;~~

~~(VII) Written prohibition, consistent with section 22-33-106, of students from bringing dangerous weapons, drugs, or other controlled substances to school, on school grounds, in school vehicles, or at school activities or sanctioned events and from using drugs, other controlled substances, or tobacco products on school grounds, in school vehicles, or at school activities or sanctioned events;~~

~~(VIII) A written policy concerning searches on school grounds, including student lockers;~~

~~(IX) A dress code policy that encourages school pride and unity, promotes uniformity of dress, and defines and prohibits students from wearing apparel that is deemed disruptive to the classroom environment or to the maintenance of a safe and orderly school. The dress code policy may require students to wear a school uniform or may establish minimum~~

1 standards of dress; and

2 ~~(X) (A) On and after August 8, 2001, a specific policy concerning~~
3 ~~bullying prevention and education. Each school district is encouraged to~~
4 ~~ensure that its policy, at a minimum, incorporates the biennial~~
5 ~~administration of surveys of students' impressions of the severity of~~
6 ~~bullying in their schools, as described in section 22-93-104 (1) (c);~~
7 ~~character building; and the designation of a team of persons at each~~
8 ~~school of the school district who advise the school administration~~
9 ~~concerning the severity and frequency of bullying incidents that occur in~~
10 ~~the school, which team may include, but need not be limited to, law~~
11 ~~enforcement officials, social workers, prosecutors, health professionals,~~
12 ~~mental health professionals, counselors, teachers, administrators, parents,~~
13 ~~and students. Each school district's policy shall set forth appropriate~~
14 ~~disciplinary consequences for students who bully other students and for~~
15 ~~any person who takes any retaliatory action against a student who reports~~
16 ~~in good faith an incident of bullying, which consequences shall comply~~
17 ~~with all applicable state and federal laws.~~

18 ~~(B) For purposes of this subparagraph (X), "bullying" means any~~
19 ~~written or verbal expression, or physical or electronic act or gesture, or a~~
20 ~~pattern thereof, that is intended to coerce, intimidate, or cause any~~
21 ~~physical, mental, or emotional harm to any student. Bullying is prohibited~~
22 ~~against any student for any reason, including but not limited to any such~~
23 ~~behavior that is directed toward a student on the basis of his or her~~
24 ~~academic performance or against whom federal and state laws prohibit~~
25 ~~discrimination upon any of the bases described in section 22-32-109 (1)~~
26 ~~(H) (I). This definition is not intended to infringe upon any right~~
27 ~~guaranteed to any person by the first amendment to the United States~~
28 ~~constitution or to prevent the expression of any religious, political, or~~

1 philosophical views.

2 (b) **Safe school reporting requirements.** A policy whereby the
3 principal of each public school ~~in~~ OF a school district shall submit
4 annually, in a manner and by a date specified by THE PROVISIONS OF
5 SECTION 22-32-146 AND BY rule of the state board, a written report to the
6 board of education of such school district concerning the learning
7 environment in the school during that school year. The board of
8 education of the school district annually shall compile the reports from
9 every school ~~in~~ OF the district and shall submit the compiled report to the
10 department of education in a format specified by rule of the state board.
11 The compiled report shall be made available to the general public. ~~Such~~
12 ~~report shall include, but need not be limited to, the following specific~~
13 ~~information for the preceding school year:~~

14 (I) ~~The total enrollment for the school;~~

15 (II) ~~The average daily attendance rate at the school;~~

16 (III) ~~Dropout rates for grades seven through twelve, if such grades~~
17 ~~are taught at the school; and~~

18 (IV) ~~The number of conduct and discipline code violations, each~~
19 ~~of which violations shall be reported only in the most serious category~~
20 ~~that is applicable to that violation, including but not limited to specific~~
21 ~~information on the number of and the action taken with respect to each of~~
22 ~~the following types of violations:~~

23 (A) ~~Carrying, bringing, using, or possessing a dangerous weapon~~
24 ~~on school grounds, in school vehicles, or at school activities or sanctioned~~
25 ~~events without the authorization of the school or the school district;~~

26 (B) ~~Use or possession of alcohol on school grounds, in school~~
27 ~~vehicles, or at school activities or sanctioned events;~~

28 (C) ~~Use, possession, or sale of a drug or controlled substance on~~

1 school grounds, in school vehicles, or at school activities or sanctioned
2 events;

3 ~~(D) Use or possession of tobacco products on school grounds, in~~
4 ~~school vehicles, or at school activities or sanctioned events;~~

5 ~~(E) Being willfully disobedient or openly and persistently defiant~~
6 ~~or repeatedly interfering with the school's ability to provide educational~~
7 ~~opportunities to and a safe environment for other students;~~

8 ~~(F) Commission of an act on school grounds that, if committed by~~
9 ~~an adult, would be considered first degree assault, as described in section~~
10 ~~18-3-202, C.R.S., second degree assault, as described in section 18-3-203,~~
11 ~~C.R.S., or vehicular assault, as described in section 18-3-205, C.R.S.;~~

12 ~~(G) Behavior on school property that is detrimental to the welfare~~
13 ~~or safety of other students or of school personnel, including but not~~
14 ~~limited to incidents of bullying, as described by subparagraph (X) of~~
15 ~~paragraph (a) of this subsection (2), and other behavior that creates a~~
16 ~~threat of physical harm to the student or to other students;~~

17 ~~(H) Willful destruction or defacement of school property;~~

18 ~~(I) Commission of an act on school grounds that, if committed by~~
19 ~~an adult, would be considered third degree assault, as described in section~~
20 ~~18-3-204, C.R.S., or disorderly conduct, as described in section 18-9-106~~
21 ~~(1) (d), C.R.S., but not disorderly conduct involving firearms or other~~
22 ~~deadly weapons, as described in section 18-9-106 (1) (e) and (1) (f),~~
23 ~~C.R.S.;~~

24 ~~(J) Commission of an act on school grounds that, if committed by~~
25 ~~an adult, would be considered robbery; and~~

26 ~~(K) Other violations of the code of conduct and discipline that~~
27 ~~resulted in documentation of the conduct in a student's record;~~

28 ~~(V) For purposes of subparagraph (IV) of this paragraph (b),~~

1 ~~"action taken" means the specific type of discipline, including but not~~
2 ~~limited to the following categories of discipline:~~

- 3 ~~(A) In-school suspension;~~
- 4 ~~(B) Out-of-school suspension;~~
- 5 ~~(C) Classroom removal in accordance with board policy;~~
- 6 ~~(D) Expulsion;~~
- 7 ~~(E) Referral to a law enforcement agency; or~~
- 8 ~~(F) Any other form of discipline, which shall be officially~~
9 ~~identified as part of a board policy;~~

10 ~~(VI) The conduct and discipline code violations required to be~~
11 ~~reported pursuant to subparagraph (IV) of this paragraph (b) shall~~
12 ~~specifically identify each conduct and discipline code violation by a~~
13 ~~student with a disability and each action taken with respect to each~~
14 ~~violation by a student with a disability;~~

15 ~~(VII) The average class size for each public elementary school,~~
16 ~~middle school or junior high school, and senior high school in the state~~
17 ~~calculated as the total number of students enrolled in the school divided~~
18 ~~by the number of full-time teachers in the school. For purposes of this~~
19 ~~subparagraph (VII), "full-time teacher" means a person who is licensed~~
20 ~~pursuant to article 60.5 of this title or is authorized pursuant to section~~
21 ~~22-60.5-111 to teach, and is primarily engaged in teaching during a~~
22 ~~substantial majority of the instructional minutes per school day.~~

23 ~~(VIII) On and after August 8, 2001, the school's policy concerning~~
24 ~~bullying prevention and education, including information related to the~~
25 ~~development and implementation of any bullying prevention programs.~~

26 ~~(10) **Compliance with safe school reporting requirements.** If~~
27 ~~the state board determines that a school district or one or more of the~~
28 ~~public schools in a school district is in willful noncompliance with the~~

1 provisions of paragraph (b) of subsection (2) of this section OR OF
2 SECTION 22-32-146, the state's share of the school district's total program,
3 as determined pursuant to article 54 of this title, may be subject to
4 forfeiture until the school district and each school in the district attains
5 compliance with the provisions of paragraph (b) of subsection (2) of this
6 section.

7 **SECTION 3.** In Colorado Revised Statutes, **add** 22-32-145,
8 22-32-146, and 22-32-147 as follows:

9 **22-32-145. School conduct and discipline codes - training -**
10 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
11 OTHERWISE REQUIRES:

12 (a) "BULLYING" MEANS ANY WRITTEN OR VERBAL EXPRESSION, OR
13 PHYSICAL OR ELECTRONIC ACT OR GESTURE, OR A PATTERN THEREOF, THAT
14 IS INTENDED TO COERCE, INTIMIDATE, OR CAUSE ANY PHYSICAL, MENTAL,
15 OR EMOTIONAL HARM TO ANY STUDENT. BULLYING IS PROHIBITED
16 AGAINST ANY STUDENT FOR ANY REASON, INCLUDING BUT NOT LIMITED TO
17 ANY SUCH BEHAVIOR THAT IS DIRECTED TOWARD A STUDENT ON THE BASIS
18 OF HIS OR HER ACADEMIC PERFORMANCE OR AGAINST WHOM FEDERAL AND
19 STATE LAWS PROHIBIT DISCRIMINATION UPON ANY OF THE BASES
20 DESCRIBED IN SECTION 22-32-109 (1) (II) (I). THIS DEFINITION IS NOT
21 INTENDED TO INFRINGE UPON ANY RIGHT GUARANTEED TO ANY PERSON BY
22 THE FIRST AMENDMENT TO THE UNITED STATES CONSTITUTION OR TO
23 PREVENT THE EXPRESSION OF ANY RELIGIOUS, POLITICAL, OR
24 PHILOSOPHICAL VIEWS.

25 (b) "DANGEROUS WEAPON" SHALL HAVE THE SAME MEANING AS
26 SET FORTH IN SECTION 22-33-102 (4).

27 (c) "EXPULSION" SHALL HAVE THE SAME MEANING AS SET FORTH
28 IN SECTION 22-33-102 (7).

1 (d) "HABITUALLY DISRUPTIVE STUDENT" SHALL HAVE THE SAME
2 MEANING AS SET FORTH IN SECTION 22-33-112 (1).

3 (e) "IN-SCHOOL SUSPENSION" SHALL HAVE THE SAME MEANING AS
4 SET FORTH IN SECTION 22-33-102 (10).

5 (f) "OUT-OF-SCHOOL SUSPENSION" SHALL HAVE THE SAME
6 MEANING AS SET FORTH IN SECTION 22-33-102 (12).

7 (g) "RESTORATIVE JUSTICE" SHALL HAVE THE SAME MEANING AS
8 SET FORTH IN SECTION 22-32-144 (3).

9 (h) "SCHOOL VEHICLE" SHALL HAVE THE SAME MEANING AS SET
10 FORTH IN SECTION 42-1-102 (88.5), C.R.S.

11 (i) "SUSPENSION" SHALL HAVE THE SAME MEANING AS SET FORTH
12 IN SECTION 22-33-102 (15).

13 (2) PURSUANT TO SECTION 22-32-109.1 (2) (a), EACH SCHOOL
14 DISTRICT BOARD OF EDUCATION SHALL INCLUDE WITHIN ITS SAFE SCHOOL
15 PLAN A CONDUCT AND DISCIPLINE CODE THAT SHALL INCLUDE, BUT NEED
16 NOT BE LIMITED TO:

17 (a) GENERAL POLICIES ON STUDENT CONDUCT, SAFETY, AND
18 WELFARE;

19 (b) GENERAL POLICIES AND PROCEDURES FOR DEALING WITH
20 STUDENTS WHO CAUSE A DISRUPTION IN THE CLASSROOM, ON SCHOOL
21 GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR
22 SANCTIONED EVENT, WHICH POLICIES AND PROCEDURES MAY INCLUDE A
23 SPECIFIC POLICY ALLOWING A TEACHER TO REMOVE A DISRUPTIVE
24 STUDENT FROM HIS OR HER CLASSROOM AND, UPON THE THIRD SUCH
25 REMOVAL FROM THE TEACHER'S CLASS, TO REMOVE THE DISRUPTIVE
26 STUDENT FROM THE TEACHER'S CLASS FOR THE REMAINDER OF THE TERM
27 OF THE CLASS. THE GENERAL POLICIES AND PROCEDURES SHALL INCLUDE
28 A DUE PROCESS PROCEDURE, WHICH AT A MINIMUM SHALL REQUIRE THAT,

1 AS SOON AS POSSIBLE AFTER A REMOVAL, THE TEACHER OR THE SCHOOL
2 PRINCIPAL SHALL CONTACT THE PARENT OR LEGAL GUARDIAN OF THE
3 STUDENT TO REQUEST HIS OR HER ATTENDANCE AT A STUDENT-TEACHER
4 CONFERENCE REGARDING THE REMOVAL. A BEHAVIOR PLAN MAY BE
5 DEVELOPED AFTER THE FIRST REMOVAL FROM CLASS AND SHALL BE
6 DEVELOPED AFTER THE SECOND REMOVAL FROM CLASS. ANY POLICY OR
7 PROCEDURE ADOPTED SHALL COMPLY WITH APPLICABLE FEDERAL AND
8 STATE LAWS, INCLUDING BUT NOT LIMITED TO LAWS REGARDING
9 STUDENTS WITH DISABILITIES.

10 (c) PROVISIONS ADDRESSING HABITUALLY DISRUPTIVE STUDENTS,
11 INCLUDING BUT NOT LIMITED TO SUSPENSION AND EXPULSION
12 PROCEEDINGS FOR HABITUALLY DISRUPTIVE STUDENTS;

13 (d) POLICIES AND PROCEDURES FOR THE USE OF ACTS OF
14 REASONABLE AND APPROPRIATE PHYSICAL INTERVENTION OR FORCE IN
15 DEALING WITH DISRUPTIVE STUDENTS; EXCEPT THAT A DISTRICT BOARD
16 SHALL NOT ADOPT A CONDUCT AND DISCIPLINE CODE THAT INCLUDES
17 PROVISIONS THAT CONFLICT WITH THE DESCRIPTIONS OF CHILD ABUSE IN
18 SECTION 18-6-401 (1), C.R.S., AND SECTION 19-1-103 (1), C.R.S., OR THE
19 PROVISIONS CONCERNING THE USE OF RESTRAINT IN THE "PROTECTION OF
20 PERSONS FROM RESTRAINT ACT", ARTICLE 20 OF TITLE 26, C.R.S.;

21 (e) GENERAL POLICIES AND PROCEDURES FOR DETERMINING THE
22 CIRCUMSTANCES UNDER AND THE MANNER IN WHICH DISCIPLINARY
23 ACTIONS, INCLUDING SUSPENSION, EXPULSION, AND DENIAL OF ADMISSION,
24 SHALL BE IMPOSED IN ACCORDANCE WITH THE PROVISIONS OF THIS
25 SECTION AND SECTIONS 22-33-105 AND 22-33-106;

26 (f) PROCEDURES TO:

27 (I) INFORM EACH STUDENT AND THE STUDENT'S PARENT OR
28 GUARDIAN WHEN DISCIPLINARY INFORMATION IS COMMUNICATED;

1 (II) PROVIDE A COPY OF THE DISCIPLINARY INFORMATION TO THE
2 STUDENT AND THE STUDENT'S PARENT OR GUARDIAN; AND

3 (III) ALLOW A STUDENT AND THE STUDENT'S PARENT OR
4 GUARDIAN TO CHALLENGE THE ACCURACY OF THE DISCIPLINARY
5 INFORMATION.

6 (g) A SPECIFIC POLICY CONCERNING GANG-RELATED ACTIVITIES IN
7 THE SCHOOL, ON SCHOOL GROUNDS, IN SCHOOL VEHICLES, OR AT SCHOOL
8 ACTIVITIES OR SANCTIONED EVENTS;

9 (h) WRITTEN PROHIBITION, CONSISTENT WITH SECTION 22-33-106,
10 OF STUDENT POSSESSION OF DANGEROUS WEAPONS, DRUGS, OR OTHER
11 CONTROLLED SUBSTANCES ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE,
12 OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT AND OF USING DRUGS
13 OR OTHER CONTROLLED SUBSTANCES ON SCHOOL GROUNDS, IN A SCHOOL
14 VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT;

15 (i) WRITTEN PROHIBITION OF STUDENT POSSESSION OR USE OF
16 TOBACCO PRODUCTS ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT
17 A SCHOOL ACTIVITY OR SANCTIONED EVENT;

18 (j) A WRITTEN POLICY CONCERNING SEARCHES ON SCHOOL
19 GROUNDS, INCLUDING SEARCHES OF STUDENT LOCKERS;

20 (k) A DRESS CODE POLICY THAT DEFINES AND PROHIBITS STUDENTS
21 FROM WEARING APPAREL THAT IS DEEMED DISRUPTIVE TO THE CLASSROOM
22 ENVIRONMENT OR TO THE MAINTENANCE OF A SAFE AND ORDERLY
23 SCHOOL. THE DRESS CODE POLICY MAY REQUIRE STUDENTS TO WEAR A
24 SCHOOL UNIFORM OR MAY ESTABLISH MINIMUM STANDARDS OF DRESS.

25 (l) A SPECIFIC POLICY CONCERNING BULLYING PREVENTION AND
26 EDUCATION. EACH SCHOOL DISTRICT IS ENCOURAGED TO ENSURE THAT ITS
27 POLICY, AT A MINIMUM, INCORPORATES THE BIENNIAL ADMINISTRATION OF
28 SURVEYS OF STUDENTS' IMPRESSIONS OF THE SEVERITY OF BULLYING IN

1 THEIR SCHOOLS, AS DESCRIBED IN SECTION 22-93-104 (1) (c); CHARACTER
2 BUILDING; AND THE DESIGNATION OF A TEAM OF PERSONS AT EACH
3 SCHOOL OF THE SCHOOL DISTRICT WHO ADVISE THE SCHOOL
4 ADMINISTRATION CONCERNING THE SEVERITY AND FREQUENCY OF
5 BULLYING INCIDENTS THAT OCCUR IN THE SCHOOL, WHICH TEAM MAY
6 INCLUDE, BUT NEED NOT BE LIMITED TO, LAW ENFORCEMENT OFFICIALS,
7 SOCIAL WORKERS, PROSECUTORS, HEALTH PROFESSIONALS, MENTAL
8 HEALTH PROFESSIONALS, COUNSELORS, TEACHERS, ADMINISTRATORS,
9 PARENTS, AND STUDENTS. EACH SCHOOL DISTRICT'S POLICY SHALL SET
10 FORTH APPROPRIATE DISCIPLINARY CONSEQUENCES FOR STUDENTS WHO
11 BULLY OTHER STUDENTS AND FOR ANY PERSON WHO TAKES ANY
12 RETALIATORY ACTION AGAINST A STUDENT WHO REPORTS IN GOOD FAITH
13 AN INCIDENT OF BULLYING, WHICH CONSEQUENCES SHALL COMPLY WITH
14 ALL APPLICABLE STATE AND FEDERAL LAWS.

15 (m) CRITERIA DISTINGUISHING MINOR VIOLATIONS OF THE
16 CONDUCT AND DISCIPLINE CODE FROM BEHAVIOR THAT WILL RESULT IN
17 THE REFERRAL OF AN OFFENDING STUDENT TO A LAW ENFORCEMENT
18 AGENCY; AND

19 (n) A SPECIFIC POLICY CONCERNING THE PREVENTION OF SEXUAL
20 ASSAULT AND DOMESTIC VIOLENCE.

21 (3) IN CREATING AND ENFORCING A SCHOOL CONDUCT AND
22 DISCIPLINE CODE PURSUANT TO SUBSECTION (2) OF THIS SECTION, EACH
23 SCHOOL DISTRICT BOARD OF EDUCATION SHALL:

24 (a) ENSURE THAT THE CODE IS DESIGNED TO:

25 (I) PROTECT STUDENTS FROM HARM;

26 (II) PROVIDE OPPORTUNITIES FOR STUDENTS TO LEARN FROM THEIR
27 MISTAKES;

28 (III) FOSTER A POSITIVE LEARNING COMMUNITY;

1 (IV) KEEP STUDENTS IN SCHOOL; AND

2 (V) IMPLEMENT A GRADUATED SET OF AGE-APPROPRIATE
3 RESPONSES TO STUDENT MISCONDUCT THAT ARE FAIR AND
4 PROPORTIONATE IN RELATION TO EACH STUDENT'S INDIVIDUAL CONDUCT;

5 (b) TO THE EXTENT PRACTICABLE, IMPOSE PROPORTIONATE
6 DISCIPLINARY INTERVENTIONS AND CONSEQUENCES, INCLUDING BUT NOT
7 LIMITED TO IN-SCHOOL SUSPENSIONS, AS RESPONSES TO STUDENT
8 MISCONDUCT AND LIMIT THE USE OF OUT-OF-SCHOOL SUSPENSIONS AND
9 EXPULSIONS TO INCIDENTS THAT INVOLVE CONDUCT THAT IS DESCRIBED
10 IN SECTION 22-33-106 (1) OR (1.5);

11 (c) TO THE EXTENT PRACTICABLE, USE PREVENTION,
12 INTERVENTION, RESTORATIVE JUSTICE, PEER MEDIATION, COUNSELING,
13 AND OTHER APPROACHES TO ADDRESS STUDENT MISCONDUCT, WHICH
14 APPROACHES DO NOT INCLUDE THE ARREST OF, OR SUMMONSES ISSUED TO,
15 STUDENTS; AND

16 (d) ENSURE THE CODE COMPLIES WITH ALL STATE AND FEDERAL
17 LAWS CONCERNING THE EDUCATION OF STUDENTS WITH DISABILITIES, AS
18 DEFINED IN SECTION 22-20-103 (5).

19 (4) IN CREATING OR AMENDING A SCHOOL DISCIPLINE CODE, EACH
20 SCHOOL DISTRICT BOARD OF EDUCATION SHALL SOLICIT AND CONSIDER, AT
21 A MINIMUM, INPUT FROM:

22 (a) THE SCHOOL DISTRICT ACCOUNTABILITY COMMITTEE OF THE
23 SCHOOL DISTRICT; AND

24 (b) A LOCAL OR STATEWIDE LAW ENFORCEMENT AGENCY.

25 (5) TO THE EXTENT PRACTICABLE, EACH SCHOOL DISTRICT BOARD
26 OF EDUCATION SHALL ASSIST TEACHERS AND OTHER SCHOOL EMPLOYEES,
27 AS MAY BE APPROPRIATE, IN OBTAINING TRAINING IN CONFLICT
28 RESOLUTION IN AND OUT OF THE CLASSROOM, DISCIPLINARY

1 ALTERNATIVES, AND RESTORATIVE JUSTICE FOR THE PURPOSE OF
2 PREVENTING VIOLATIONS OF THE SCHOOL DISTRICT'S CONDUCT AND
3 DISCIPLINE CODE AND CREATING A POSITIVE SCHOOL CULTURE.

4 (6) EACH SCHOOL DISTRICT BOARD OF EDUCATION IS ENCOURAGED
5 TO UTILIZE THE RESOURCES OF A STATEWIDE ORGANIZATION THAT OFFERS
6 TRAINING AND SUPPORT PROGRAMS FOR PARENTS OF PUBLIC SCHOOL
7 STUDENTS AND TO REFER PARENTS TO SUCH RESOURCES.

8 **22-32-146. Safe school reporting requirements - definitions.**

9 (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE
10 REQUIRES:

11 (a) "ACTION TAKEN" MEANS THE SPECIFIC TYPE OF DISCIPLINE
12 EMPLOYED BY A SCHOOL OR SCHOOL DISTRICT, INCLUDING BUT NOT
13 LIMITED TO THE FOLLOWING CATEGORIES OF DISCIPLINE:

- 14 (I) RESTORATIVE JUSTICE;
- 15 (II) IN-SCHOOL SUSPENSION;
- 16 (III) OUT-OF-SCHOOL SUSPENSION;
- 17 (IV) CLASSROOM REMOVAL IN ACCORDANCE WITH BOARD POLICY;
- 18 (V) EXPULSION;
- 19 (VI) A REFERRAL TO A LAW ENFORCEMENT AGENCY; AND
- 20 (VII) ANY OTHER FORM OF DISCIPLINE THAT IS OFFICIALLY
21 IDENTIFIED AS PART OF A BOARD POLICY.

22 (b) "BULLYING" SHALL HAVE THE SAME MEANING AS SET FORTH IN
23 SECTION 22-32-145 (1).

24 (c) "DANGEROUS WEAPON" SHALL HAVE THE SAME MEANING AS
25 SET FORTH IN SECTION 22-33-102 (4).

26 (d) "EXPULSION" SHALL HAVE THE SAME MEANING AS SET FORTH
27 IN SECTION 22-33-102 (7).

28 (e) "FULL-TIME TEACHER" MEANS A PERSON WHO IS LICENSED

1 PURSUANT TO ARTICLE 60.5 OF THIS TITLE OR IS AUTHORIZED PURSUANT
2 TO SECTION 22-60.5-111 TO TEACH, AND IS PRIMARILY ENGAGED IN
3 TEACHING DURING A SUBSTANTIAL MAJORITY OF THE INSTRUCTIONAL
4 MINUTES PER SCHOOL DAY.

5 (f) "IN-SCHOOL SUSPENSION" SHALL HAVE THE SAME MEANING AS
6 SET FORTH IN SECTION 22-33-102 (10).

7 (g) "OUT-OF-SCHOOL SUSPENSION" SHALL HAVE THE SAME
8 MEANING AS SET FORTH IN SECTION 22-33-102 (12).

9 (h) (I) "REFERRAL TO A LAW ENFORCEMENT AGENCY" MEANS A
10 COMMUNICATION BETWEEN A SCHOOL ADMINISTRATOR, TEACHER, OR
11 OTHER SCHOOL EMPLOYEE AND A LAW ENFORCEMENT AGENCY, WHICH
12 COMMUNICATION:

13 (A) IS INITIATED BY THE SCHOOL ADMINISTRATOR, TEACHER, OR
14 OTHER SCHOOL EMPLOYEE; AND

15 (B) CONCERNS BEHAVIOR BY A STUDENT THAT THE SCHOOL
16 ADMINISTRATOR, TEACHER, OR OTHER SCHOOL EMPLOYEE BELIEVES MAY
17 CONSTITUTE A CRIMINAL OFFENSE.

18 (II) "REFERRAL TO A LAW ENFORCEMENT AGENCY" DOES NOT
19 MEAN ROUTINE OR INCIDENTAL COMMUNICATION BETWEEN A SCHOOL
20 ADMINISTRATOR, TEACHER, OR OTHER SCHOOL EMPLOYEE AND A LAW
21 ENFORCEMENT OFFICER WHO, AS PART OF HIS OR HER PROFESSIONAL
22 DUTIES, SERVES FULL-TIME OR PART-TIME AS AN ON-SITE RESOURCE
23 OFFICER AT A SCHOOL.

24 (i) "RESTORATIVE JUSTICE" SHALL HAVE THE SAME MEANING AS
25 SET FORTH IN SECTION 22-32-144 (3).

26 (j) "SCHOOL VEHICLE" SHALL HAVE THE SAME MEANING AS SET
27 FORTH IN SECTION 42-1-102 (88.5), C.R.S.

28 (k) "SUSPENSION" SHALL HAVE THE SAME MEANING AS SET FORTH

1 IN SECTION 22-32-102 (15).

2 (2) PURSUANT TO SECTION 22-32-109.1 (2) (b), EACH SCHOOL
3 DISTRICT BOARD OF EDUCATION SHALL INCLUDE WITHIN ITS SAFE SCHOOL
4 PLAN A POLICY WHEREBY THE PRINCIPAL OF EACH PUBLIC SCHOOL OF THE
5 SCHOOL DISTRICT SHALL SUBMIT ANNUALLY, IN A MANNER AND BY A DATE
6 SPECIFIED BY THE PROVISIONS OF THIS SECTION AND BY RULE OF THE
7 STATE BOARD, A WRITTEN REPORT TO THE BOARD OF EDUCATION OF THE
8 SCHOOL DISTRICT CONCERNING THE LEARNING ENVIRONMENT IN THE
9 SCHOOL DURING THAT SCHOOL YEAR. THE REPORT SHALL INCLUDE, BUT
10 NEED NOT BE LIMITED TO, THE FOLLOWING SPECIFIC INFORMATION FOR THE
11 PRECEDING SCHOOL YEAR:

12 (a) THE TOTAL ENROLLMENT FOR THE SCHOOL;

13 (b) THE AVERAGE DAILY ATTENDANCE RATE AT THE SCHOOL;

14 (c) DROPOUT RATES FOR GRADES SEVEN THROUGH TWELVE, IF
15 SUCH GRADES ARE TAUGHT AT THE SCHOOL;

16 (d) THE AVERAGE CLASS SIZE FOR EACH PUBLIC ELEMENTARY
17 SCHOOL, MIDDLE SCHOOL OR JUNIOR HIGH SCHOOL, AND SENIOR HIGH
18 SCHOOL IN THE STATE, CALCULATED AS THE TOTAL NUMBER OF STUDENTS
19 ENROLLED IN THE SCHOOL DIVIDED BY THE NUMBER OF FULL-TIME
20 TEACHERS IN THE SCHOOL;

21 (e) THE SCHOOL'S POLICY CONCERNING BULLYING PREVENTION
22 AND EDUCATION, INCLUDING INFORMATION RELATED TO THE
23 DEVELOPMENT AND IMPLEMENTATION OF ANY BULLYING-PREVENTION
24 PROGRAMS;

25 (f) THE NUMBER OF CONDUCT AND DISCIPLINE CODE VIOLATIONS,
26 EACH OF WHICH VIOLATIONS SHALL BE REPORTED ONLY IN THE MOST
27 SERIOUS CATEGORY THAT IS APPLICABLE TO THAT VIOLATION, INCLUDING
28 BUT NOT LIMITED TO THE NUMBER OF AND THE ACTION TAKEN WITH

1 RESPECT TO EACH OF THE FOLLOWING TYPES OF VIOLATIONS:

2 (I) POSSESSING A DANGEROUS WEAPON ON SCHOOL GROUNDS, IN
3 A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT
4 WITHOUT THE AUTHORIZATION OF THE SCHOOL OR THE SCHOOL DISTRICT;

5 (II) USE OR POSSESSION OF ALCOHOL ON SCHOOL GROUNDS, IN A
6 SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT;

7 (III) USE, POSSESSION, OR SALE OF A DRUG OR CONTROLLED
8 SUBSTANCE ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL
9 ACTIVITY OR SANCTIONED EVENT;

10 (IV) USE OR POSSESSION OF TOBACCO PRODUCTS ON SCHOOL
11 GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR
12 SANCTIONED EVENT;

13 (V) BEING WILLFULLY DISOBEDIENT OR OPENLY AND
14 PERSISTENTLY DEFIANT OR REPEATEDLY INTERFERING WITH THE SCHOOL'S
15 ABILITY TO PROVIDE EDUCATIONAL OPPORTUNITIES TO AND A SAFE
16 ENVIRONMENT FOR OTHER STUDENTS;

17 (VI) COMMISSION OF AN ACT ON SCHOOL PROPERTY THAT, IF
18 COMMITTED BY AN ADULT, WOULD BE CONSIDERED FIRST DEGREE
19 ASSAULT, AS DESCRIBED IN SECTION 18-3-202, C.R.S., SECOND DEGREE
20 ASSAULT, AS DESCRIBED IN SECTION 18-3-203, C.R.S., OR VEHICULAR
21 ASSAULT, AS DESCRIBED IN SECTION 18-3-205, C.R.S.;

22 (VII) COMMISSION OF AN ACT ON SCHOOL PROPERTY THAT, IF
23 COMMITTED BY AN ADULT, WOULD BE CONSIDERED SEXUAL ASSAULT, AS
24 DESCRIBED IN SECTION 18-3-402, C.R.S.;

25 (VIII) COMMISSION OF AN ACT ON SCHOOL PROPERTY THAT, IF
26 COMMITTED BY AN ADULT, WOULD BE CONSIDERED DOMESTIC VIOLENCE,
27 AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.;

28 (IX) BEHAVIOR ON SCHOOL PROPERTY THAT IS DETRIMENTAL TO

1 THE WELFARE OR SAFETY OF OTHER STUDENTS OR OF SCHOOL PERSONNEL,
2 INCLUDING BUT NOT LIMITED TO INCIDENTS OF BULLYING AND OTHER
3 BEHAVIOR THAT CREATES A THREAT OF PHYSICAL HARM TO THE STUDENT
4 OR TO OTHER STUDENTS;

5 (X) WILLFUL DESTRUCTION OR DEFACEMENT OF SCHOOL
6 PROPERTY;

7 (XI) COMMISSION OF AN ACT ON SCHOOL PROPERTY THAT, IF
8 COMMITTED BY AN ADULT, WOULD BE CONSIDERED THIRD DEGREE
9 ASSAULT, AS DESCRIBED IN SECTION 18-3-204, C.R.S., OR DISORDERLY
10 CONDUCT, AS DESCRIBED IN SECTION 18-9-106 (1) (d), C.R.S., BUT NOT
11 DISORDERLY CONDUCT INVOLVING FIREARMS OR OTHER DEADLY
12 WEAPONS, AS DESCRIBED IN SECTION 18-9-106 (1) (e) AND (1) (f), C.R.S.;

13 (XII) COMMISSION OF AN ACT ON SCHOOL PROPERTY THAT, IF
14 COMMITTED BY AN ADULT, WOULD BE CONSIDERED ROBBERY; AND

15 (XIII) OTHER VIOLATIONS OF THE CONDUCT AND DISCIPLINE CODE
16 THAT RESULTED IN DOCUMENTATION OF THE CONDUCT IN A STUDENT'S
17 RECORD.

18 (g) THE SCHOOL'S POLICY CONCERNING THE PREVENTION OF
19 SEXUAL ASSAULT AND DOMESTIC VIOLENCE.

20 (3) THE REPORT OF THE CONDUCT AND DISCIPLINE CODE
21 VIOLATIONS THAT IS REQUIRED PURSUANT TO PARAGRAPH (f) OF
22 SUBSECTION (2) OF THIS SECTION SHALL SPECIFICALLY IDENTIFY:

23 (a) EACH CONDUCT AND DISCIPLINE CODE VIOLATION BY A
24 STUDENT WITH A DISABILITY AND EACH ACTION TAKEN WITH RESPECT TO
25 EACH VIOLATION BY A STUDENT WITH A DISABILITY; AND

26 (b) EACH VIOLATION THAT RESULTED IN A REFERRAL TO A LAW
27 ENFORCEMENT AGENCY.

28 **22-32-147. School use of on-site peace officers - employment**

1 **- notification of arrest or summons.** (1) ON AND AFTER OCTOBER 1,
2 2013, NEITHER A SCHOOL ADMINISTRATOR NOR A SCHOOL DISTRICT BOARD
3 OF EDUCATION SHALL ACCEPT THE ASSIGNMENT OF A PEACE OFFICER, AS
4 DEFINED IN SECTION 24-31-301 (5), C.R.S., ACTING IN HIS OR HER OFFICIAL
5 CAPACITY AS A SCHOOL RESOURCE OFFICER IN A PUBLIC SCHOOL UNLESS
6 THE PEACE OFFICER HAS SUCCESSFULLY COMPLETED THE SCHOOL
7 RESOURCE OFFICER TRAINING CURRICULUM DESCRIBED IN SECTION
8 24-31-311, C.R.S. THIS PROVISION DOES NOT APPLY TO PEACE OFFICERS
9 WHO ARE NOT SCHOOL RESOURCE OFFICERS.

10 (2) IF A SCHOOL RESOURCE OFFICER ARRESTS OR ISSUES A
11 SUMMONS TO A STUDENT OF A SCHOOL, THE SCHOOL RESOURCE OFFICER
12 SHALL NOTIFY THE PRINCIPAL OF THE SCHOOL OF THE ARREST OR ISSUANCE
13 OF THE SUMMONS NOT LESS THAN THIRTY DAYS AFTER THE ARREST OR
14 ISSUANCE OF THE SUMMONS.

15 **SECTION 4.** In Colorado Revised Statutes, **amend** 22-33-102 as
16 follows:

17 **22-33-102. Definitions.** As used in this article, unless the context
18 otherwise requires:

19 (1) "Academic year" means that portion of the school year during
20 which the public schools are in regular session, beginning about the first
21 week in September and ending about the first week in June of the next
22 year, or that portion of the school year which constitutes the minimum
23 period during which a pupil must be enrolled.

24 (2) "Adult" means a person who has reached the age of
25 twenty-one years.

26 (3) "Board of education" means the school board, board of
27 directors, and board of education of a school district.

28 (4) "DANGEROUS WEAPON" MEANS:

1 (a) A FIREARM, AS DEFINED IN SECTION 18-1-901 (3) (h), C.R.S.;

2 (b) ANY PELLET GUN, BB GUN, OR OTHER DEVICE, WHETHER
3 OPERATIONAL OR NOT, DESIGNED TO PROPEL PROJECTILES BY SPRING
4 ACTION OR COMPRESSED AIR;

5 (c) A FIXED-BLADE KNIFE WITH A BLADE THAT EXCEEDS THREE
6 INCHES IN LENGTH;

7 (d) A SPRING-LOADED KNIFE OR A POCKET KNIFE WITH A BLADE
8 EXCEEDING THREE AND ONE-HALF INCHES IN LENGTH; OR

9 (e) ANY OBJECT, DEVICE, INSTRUMENT, MATERIAL, OR SUBSTANCE,
10 WHETHER ANIMATE OR INANIMATE, THAT IS USED OR INTENDED TO BE
11 USED TO INFLICT DEATH OR SERIOUS BODILY INJURY.

12 (5) "DELINQUENT ACT" SHALL HAVE THE SAME MEANING AS SET
13 FORTH IN SECTION 19-1-103 (36), C.R.S.

14 ~~(4)~~(6) "Executive officer" means the superintendent of schools or
15 ~~that~~ THE head administrative officer designated by the board of education
16 to execute its policy decisions.

17 (7) "EXPULSION" MEANS THE PROHIBITION OF A STUDENT BY A
18 SCHOOL ADMINISTRATION OR BY A LOCAL BOARD OF EDUCATION FROM
19 BEING PRESENT ON SCHOOL GROUNDS FOR THE REMAINDER OF THE
20 ACADEMIC TERM IN WHICH THE OFFENSE OCCURRED, FOR THE REMAINDER
21 OF THE ACADEMIC YEAR, OR FOR THE DURATION OF THE ACADEMIC TERM
22 IMMEDIATELY FOLLOWING THE ACADEMIC TERM IN WHICH THE OFFENSE
23 OCCURRED.

24 ~~(4.5)~~ (8) "General educational development tests" or "GED"
25 means the battery of tests given at an authorized testing center, which
26 tests are designed and published by the GED testing service of the
27 American council on education to measure the major outcomes and
28 concepts generally associated with four years of high school education.

1 Each GED testing center must have a current contract with the American
2 council on education and be authorized by the commissioner of education.

3 (9) "HABITUALLY DISRUPTIVE STUDENT" SHALL HAVE THE SAME
4 MEANING AS SET FORTH IN SECTION 22-33-112 (1).

5 (10) "IN-SCHOOL SUSPENSION" MEANS A PERIOD OF TIME DURING
6 WHICH A STUDENT IS PROHIBITED FROM PARTICIPATING IN REGULAR
7 SCHOOL ACTIVITIES BUT REMAINS IN THE SCHOOL ENVIRONMENT AND
8 CONTINUES TO RECEIVE EDUCATIONAL INSTRUCTION, SUPERVISION, AND
9 DISCIPLINE.

10 ~~(4.7)~~ (11) "Informal hearing" means an opportunity for a child to
11 explain his or her position regarding a disruption in the classroom or an
12 incident constituting grounds for discipline.

13 (12) "OUT-OF-SCHOOL SUSPENSION" MEANS A PERIOD OF TIME
14 DURING WHICH A STUDENT IS PROHIBITED BY A SCHOOL ADMINISTRATION
15 OR BY A LOCAL BOARD OF EDUCATION FROM BEING PRESENT ON SCHOOL
16 GROUNDS.

17 ~~(5)~~ (13) "Parent" means the mother or father of a child or any
18 other person having custody of a child.

19 (14) "SCHOOL VEHICLE" SHALL HAVE THE SAME MEANING AS SET
20 FORTH IN SECTION 42-1-102 (88.5), C.R.S.

21 (15) "SUSPENSION" MEANS EITHER AN IN-SCHOOL SUSPENSION OR
22 AN OUT-OF-SCHOOL SUSPENSION.

23 ~~(6)~~ (16) "State board" means the state board of education.

24 **SECTION 5.** In Colorado Revised Statutes, 22-33-105, **amend**
25 (2) (c), (2.5), (3) (d) introductory portion, (3) (d) (III), and (6) as follows:

26 **22-33-105. Suspension, expulsion, and denial of admission.**

27 (2) In addition to the powers provided in section 22-32-110, the board of
28 education of each district may:

1 (c) Deny admission to, or expel for any period not extending
2 beyond one year, any child whom the board of education, in accordance
3 with the limitations imposed by this article, ~~shall determine~~ DETERMINES
4 does not qualify for admission to, or continued attendance at, the public
5 schools of the district; EXCEPT THAT A BOARD OF EDUCATION SHALL NOT
6 DENY ADMISSION TO OR EXPEL ANY CHILD UNTIL A HEARING HAS BEEN
7 CONDUCTED, AT WHICH HEARING THE CHILD OR THE CHILD'S PARENT,
8 GUARDIAN, OR LEGAL CUSTODIAN MAY PRESENT EVIDENCE AND
9 TESTIMONY ON THE CHILD'S BEHALF; BRING FORTH INTERESTED PERSONS
10 TO TESTIFY ON THE CHILD'S BEHALF; ASK QUESTIONS OF ANY SCHOOL
11 ADMINISTRATORS, SCHOOL EMPLOYEES, OR MEMBERS OF THE LOCAL
12 BOARD OF EDUCATION WHO ARE PRESENT AT THE HEARING; AND BE
13 REPRESENTED BY AN ATTORNEY. A board of education may delegate ~~such~~
14 THE powers DESCRIBED IN THIS PARAGRAPH (c) to its executive officer or
15 to a HIS OR HER designee who shall serve as a hearing officer. ~~If the~~
16 ~~hearing is conducted by a designee acting as a hearing officer,~~ AFTER THE
17 CONCLUSION OF THE HEARING:

18 (I) IF THE HEARING HAS BEEN CONDUCTED BY A DESIGNEE OF THE
19 EXECUTIVE OFFICER SERVING AS A HEARING OFFICER, the hearing officer
20 shall forward findings of fact and recommendations to the executive
21 officer at the conclusion of the hearing.

22 (II) NOT MORE THAN FIVE DAYS AFTER THE CONCLUSION OF THE
23 HEARING, the executive officer shall render a written opinion ~~within five~~
24 ~~days after a hearing conducted by the executive officer or by a hearing~~
25 ~~officer~~ AND A DECISION REGARDING THE DENIAL OF ADMISSION TO, OR THE
26 EXPULSION OF, THE CHILD.

27 (III) The executive officer shall report ~~on each case acted upon~~
28 THE OUTCOME OF THE HEARING at the next meeting of the board of

1 education, briefly describing the circumstances and the reasons for the
2 executive officer's action.

3 (IV) ~~When delegated, an~~ A CHILD WHO HAS BEEN DENIED
4 ADMISSION OR EXPELLED AS AN OUTCOME OF THE HEARING SHALL HAVE
5 TEN DAYS AFTER THE DENIAL OF ADMISSION OR EXPULSION IN WHICH TO
6 appeal ~~may be taken from~~ the decision of the executive officer to the
7 board of education, AFTER WHICH TIME THE DECISION TO GRANT OR DENY
8 SUCH APPEAL SHALL BE AT THE DISCRETION OF THE BOARD OF EDUCATION.

9 The appeal shall consist of a review of the facts that were presented and
10 ~~that were determined~~ CONSIDERED at the hearing, ~~conducted by the~~
11 ~~executive officer or by a designee acting as a hearing officer,~~ arguments
12 relating to the decision, and questions of clarification from the board of
13 education. ~~No board of education shall deny admission to, or expel, any~~
14 ~~child without a hearing, if one is requested by the parent, guardian, or~~
15 ~~legal custodian of the child, at which evidence may be presented in the~~
16 ~~child's behalf.~~

17 (V) ~~If the child is denied admission or expelled,~~ A BOARD OF
18 EDUCATION OR AN EXECUTIVE OFFICER DENIES ADMISSION TO, OR EXPELS,
19 A CHILD, the child ~~shall be entitled to~~ MAY SEEK a review of the decision
20 of the board of education in accordance with section 22-33-108.

21 (2.5) Each board of education shall annually report to the state
22 board the number of students expelled from schools within the district
23 pursuant to this section, PURSUANT TO SECTION 22-33-106, and pursuant
24 to section 25-4-907, C.R.S. Any ~~pupil~~ STUDENT who is expelled pursuant
25 to this section shall not be included in calculating the dropout rate for the
26 school from which ~~such~~ THE student is expelled or in calculating the
27 dropout rate for the school district in which ~~such pupil~~ THE STUDENT was
28 enrolled prior to being expelled.

1 (3) (d) IF A STUDENT IS SUSPENDED PURSUANT TO SUBSECTION (2)
2 OF THIS SECTION, the suspending authority shall:

3 (III) Provide an opportunity for ~~a pupil~~ THE STUDENT to make up
4 school work during the period of suspension FOR FULL ACADEMIC CREDIT.
5 The intent of this provision is to provide an opportunity for the ~~pupil~~
6 STUDENT to reintegrate into the educational program of the district
7 following the period of suspension, which the school district should take
8 into consideration when determining the amount of credit a student will
9 receive for this makeup work.

10 (6) When a pupil is expelled by a school district, ~~for the remainder~~
11 ~~of the school year~~, the parent, guardian, or legal custodian is responsible
12 for seeing that the compulsory school attendance statute is complied with
13 during the period of expulsion from such school district.

14 **SECTION 6.** In Colorado Revised Statutes, 22-33-106, **amend**
15 (1) introductory portion, (1) (c.5) (I), (1) (d), (3) introductory portion, (4)
16 (a), and (4) (b) (I); **repeal** (1) (c.5) (II) and (1) (c.5) (III); and **add** (1) (g)
17 and (1.5) as follows:

18 **22-33-106. Grounds for suspension, expulsion, and denial of**
19 **admission.** (1) The following ~~shall~~ MAY be grounds for suspension or
20 expulsion of a child from a public school during a school year:

21 (c.5) (I) Declaration as ~~an~~ A habitually disruptive student. ~~pursuant~~
22 ~~to the provisions of this paragraph (c.5).~~

23 (II) ~~For purposes of this paragraph (c.5), "habitually disruptive~~
24 ~~student" means a child who has been suspended pursuant to paragraph~~
25 ~~(a), (b), (c), or (d) of this subsection (1) three times during the course of~~
26 ~~the school year for causing a material and substantial disruption in the~~
27 ~~classroom, on school grounds, on a school vehicle, as defined in section~~
28 ~~42-1-102 (88.5), C.R.S., or at school activities or events, because of~~

1 behavior that was initiated, willful, and overt on the part of the child.
2 Any student who is enrolled in a public school may be subject to being
3 declared an habitually disruptive student.

4 (III) The student and the parent, legal guardian, or legal custodian
5 shall have been notified in writing of each suspension counted toward
6 declaring the student as habitually disruptive pursuant to this paragraph
7 (c.5) and the student and parent, legal guardian, or legal custodian shall
8 have been notified in writing and by telephone or other means at the home
9 or the place of employment of the parent or legal guardian of the
10 definition of "habitually disruptive student".

11 (d) (I) Serious violations in a school building or in or on school
12 property, which suspension or expulsion shall be mandatory; except that
13 expulsion shall be mandatory for the following violations: Carrying,
14 bringing, using, or possessing a dangerous weapon without the
15 authorization of the school or the school district; the sale of a drug or
16 controlled substance as defined in section 12-22-303, C.R.S.; or the
17 commission of an act which if committed by an adult would be robbery
18 pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to
19 part 2 of article 3 of title 18, C.R.S., other than the commission of an act
20 that would be third degree assault under section 18-3-204, C.R.S., if
21 committed by an adult.

22 (H) As used in this paragraph (d), "dangerous weapon" means:

23 (A) A firearm, whether loaded or unloaded;

24 (B) Any pellet or BB gun or other device, whether operational or
25 not, designed to propel projectiles by spring action or compressed air;

26 (C) A fixed blade knife with a blade that measures longer than
27 three inches in length or a spring loaded knife or a pocket knife with a
28 blade longer than three and one-half inches; or

1 ~~(D) Any object, device, instrument, material, or substance,~~
2 ~~whether animate or inanimate, used or intended to be used to inflict death~~
3 ~~or serious bodily injury.~~

4 ~~(H) Notwithstanding the provisions of subparagraph (I) of this~~
5 ~~paragraph (d), carrying, bringing, or possessing a dangerous weapon~~
6 ~~without the authorization of the school or the school district shall not~~
7 ~~require mandatory expulsion if, when the student discovers that he or she~~
8 ~~has carried, brought, or is in possession of a dangerous weapon, the~~
9 ~~student notifies a teacher, administrator, or other authorized person in the~~
10 ~~school district as soon as possible and delivers the dangerous weapon to~~
11 ~~the teacher, administrator, or other authorized person. Nothing in this~~
12 ~~subparagraph (H) shall be construed as prohibiting a school district from~~
13 ~~expelling a student under the circumstances specified in this subparagraph~~
14 ~~(H) if such expulsion would be in accordance with the school district's~~
15 ~~discipline code.~~

16 (d) COMMITTING ONE OF THE FOLLOWING OFFENSES ON SCHOOL
17 GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR
18 SANCTIONED EVENT:

19 (I) POSSESSION OF A DANGEROUS WEAPON WITHOUT THE
20 AUTHORIZATION OF THE SCHOOL OR THE SCHOOL DISTRICT;

21 (II) THE SALE OF A DRUG OR CONTROLLED SUBSTANCE AS DEFINED
22 IN SECTION 12-22-303, C.R.S.; OR

23 (III) THE COMMISSION OF AN ACT THAT, IF COMMITTED BY AN
24 ADULT, WOULD BE ROBBERY PURSUANT TO PART 3 OF ARTICLE 4 OF TITLE
25 18, C.R.S.; SEXUAL ASSAULT, AS DESCRIBED IN SECTION 18-3-402, C.R.S.;
26 DOMESTIC VIOLENCE, AS DEFINED IN SECTION 18-6-800.3 (1), C.R.S.; OR
27 ASSAULT PURSUANT TO PART 2 OF ARTICLE 3 OF TITLE 18, C.R.S., OTHER
28 THAN THE COMMISSION OF AN ACT THAT WOULD BE THIRD DEGREE

1 ASSAULT UNDER SECTION 18-3-204, C.R.S., IF COMMITTED BY AN ADULT.

2 (g) PURSUANT TO SECTION 22-12-105 (3), MAKING A FALSE
3 ACCUSATION OF CRIMINAL ACTIVITY AGAINST AN EMPLOYEE OF AN
4 EDUCATIONAL ENTITY TO LAW ENFORCEMENT AUTHORITIES OR SCHOOL
5 DISTRICT OFFICIALS OR PERSONNEL.

6 (1.5) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, IN
7 ACCORDANCE WITH THE PROVISIONS OF 20 U.S.C. SEC. 7151, A STUDENT
8 WHO IS DETERMINED TO HAVE BROUGHT A FIREARM TO A SCHOOL, OR TO
9 HAVE POSSESSED A FIREARM AT A SCHOOL, SHALL BE EXPELLED FOR A
10 PERIOD OF NOT LESS THAN ONE YEAR; EXCEPT THAT THE SUPERINTENDENT
11 OF THE STUDENT'S SCHOOL DISTRICT MAY MODIFY THIS REQUIREMENT FOR
12 A STUDENT ON A CASE-BY-CASE BASIS IF SUCH MODIFICATION IS IN
13 WRITING.

14 (3) The following ~~shall~~ MAY constitute additional grounds for
15 denial of admission to a public school:

16 (4) (a) Except as provided in paragraph (b) of this subsection (4),
17 a school district shall prohibit any student who is expelled from a public
18 school of the school district pursuant to paragraph (c) or (d) of subsection
19 (1) of this section OR PURSUANT TO SUBSECTION (1.5) OF THIS SECTION
20 from enrolling or reenrolling in the same school in which the victim of
21 the offense or member of a victim's immediate family is enrolled or
22 employed. If the school district has no actual knowledge of the name of
23 the victim of the offense for which the student was expelled, the
24 provisions of this subsection (4) shall be implemented only upon request
25 of the victim or a member of the victim's immediate family.

26 (b) In any school district that has only one school in which the
27 expelled student can enroll, the school district shall either:

28 (I) Prohibit the student expelled from the school district pursuant

1 to paragraph (c) or (d) of subsection (1) of this section OR PURSUANT TO
2 SUBSECTION (1.5) OF THIS SECTION from enrolling or reenrolling in the
3 same school in which the victim of the offense or member of a victim's
4 immediate family is enrolled or employed; or

5 **SECTION 7.** In Colorado Revised Statutes, **add** 22-33-112 as
6 follows:

7 **22-33-112. Habitually disruptive students - designation -**
8 **notice - definition.** (1) FOR PURPOSES OF THIS SECTION, UNLESS THE
9 CONTEXT OTHERWISE REQUIRES, "HABITUALLY DISRUPTIVE STUDENT"
10 MEANS A STUDENT WHO HAS BEEN SUSPENDED PURSUANT TO SECTION
11 22-33-106 (1) (a), (1) (b), (1) (c), OR (1) (d) THREE TIMES DURING THE
12 COURSE OF THE SCHOOL YEAR FOR CAUSING A MATERIAL AND
13 SUBSTANTIAL DISRUPTION IN THE CLASSROOM, ON SCHOOL GROUNDS, IN
14 A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT
15 BECAUSE OF BEHAVIOR THAT WAS INITIATED, WILLFUL, AND OVERT ON THE
16 PART OF THE CHILD.

17 (2) (a) EXCEPT AS DESCRIBED IN PARAGRAPH (b) OF THIS
18 SUBSECTION (2), A STUDENT WHO IS ENROLLED IN A PUBLIC SCHOOL MAY
19 BE DECLARED A HABITUALLY DISRUPTIVE STUDENT BY THE
20 ADMINISTRATION OF THE STUDENT'S SCHOOL IF THE STUDENT SATISFIES
21 THE DEFINITION PROVIDED IN SUBSECTION (1) OF THIS SECTION.

22 (b) A SCHOOL ADMINISTRATOR SHALL NOT DECLARE A STUDENT TO
23 BE A HABITUALLY DISRUPTIVE STUDENT UNTIL THE SCHOOL HAS
24 DEVELOPED AN ASSESSMENT OF, AND A REMEDIAL DISCIPLINE PLAN FOR,
25 THE STUDENT, WHICH ADDRESSES THE STUDENT'S DISRUPTIVE BEHAVIOR,
26 HIS OR HER EDUCATIONAL NEEDS, AND THE GOAL OF KEEPING THE
27 STUDENT IN SCHOOL. A SCHOOL SHALL DEVELOP SUCH AN ASSESSMENT
28 AFTER THE SECOND SUSPENSION OF A STUDENT FOR A MATERIAL AND

1 SUBSTANTIAL DISRUPTION. THE SCHOOL ADMINISTRATION SHALL
2 ENCOURAGE AND SOLICIT THE FULL PARTICIPATION OF THE STUDENT'S
3 PARENT, GUARDIAN, OR LEGAL CUSTODIAN IN THE DEVELOPMENT OF SUCH
4 AN ASSESSMENT.

5 (3) IF THE ADMINISTRATION OF A SCHOOL DECLARES A STUDENT TO
6 BE A HABITUALLY DISRUPTIVE STUDENT PURSUANT TO SUBSECTION (1) OF
7 THIS SECTION, AN ADMINISTRATOR OF THE SCHOOL SHALL IMMEDIATELY
8 NOTIFY THE STUDENT'S PARENT, LEGAL GUARDIAN, OR LEGAL CUSTODIAN
9 IN WRITING OF SUCH DESIGNATION. THIS NOTIFICATION SHALL INCLUDE:

10 (a) A BRIEF DESCRIPTION OF EACH SUSPENSION THAT THE SCHOOL
11 ADMINISTRATION COUNTED IN DECLARING THE STUDENT HABITUALLY
12 DISRUPTIVE; AND

13 (b) THE DEFINITION OF "HABITUALLY DISRUPTIVE STUDENT" SET
14 FORTH IN SUBSECTION (1) OF THIS SECTION.

15 **SECTION 8.** In Colorado Revised Statutes, 18-9-109, **add** (7) as
16 follows:

17 **18-9-109. Interference with staff, faculty, or students of**
18 **educational institutions.** (7) THE OFFENSES DESCRIBED IN THIS SECTION
19 ARE NOT INTENDED TO BE USED TO CHARGE OR PROSECUTE A STUDENT,
20 SCHOOL OFFICIAL, EMPLOYEE, OR INVITEE WHO IS LEGALLY PRESENT ON
21 THE PREMISES OR FACILITIES OF AN EDUCATIONAL INSTITUTION.

22 **SECTION 9.** In Colorado Revised Statutes, 24-31-303, **amend**
23 (1) (i); and **add** (1) (j) as follows:

24 **24-31-303. Duties - powers of the P.O.S.T. board.** (1) The
25 P.O.S.T. board has the following duties:

26 (i) To promulgate rules and regulations that establish the criteria
27 that shall be applied in determining whether to recommend peace officer
28 status for a group or specific position as provided in section 16-2.5-201

1 (4), C.R.S.; AND

2 (j) TO ESTABLISH STANDARDS FOR TRAINING OF SCHOOL RESOURCE
3 OFFICERS, AS DESCRIBED IN SECTION 24-31-312.

4 **SECTION 10.** In Colorado Revised Statutes, **add** 24-31-312 as
5 follows:

6 **24-31-312. School resource officer training.** (1) ON OR BEFORE
7 OCTOBER 1, 2012, THE P.O.S.T. BOARD SHALL CREATE, AND SHALL
8 THEREAFTER PROVIDE, A TRAINING CURRICULUM TO PREPARE PEACE
9 OFFICERS TO SERVE IN THEIR OFFICIAL CAPACITY AS SCHOOL RESOURCE
10 OFFICERS IN PUBLIC SCHOOLS PURSUANT TO SECTION 22-32-147, C.R.S.

11 (2) IN CREATING THE TRAINING CURRICULUM DESCRIBED IN
12 SUBSECTION (1) OF THIS SECTION, THE P.O.S.T. BOARD SHALL SOLICIT
13 AND, TO THE EXTENT PRACTICABLE, IMPLEMENT THE SUGGESTIONS OF
14 RELEVANT STAKEHOLDERS, INCLUDING BUT NOT LIMITED TO:

15 (a) THE DEPARTMENT OF EDUCATION CREATED IN SECTION
16 24-1-115;

17 (b) THE SCHOOL SAFETY RESOURCE CENTER CREATED IN SECTION
18 24-33.5-1803;

19 (c) A STATEWIDE ASSOCIATION OF LOCAL SCHOOL DISTRICT
20 BOARDS OF EDUCATION;

21 (d) A STATEWIDE ORGANIZATION OF SCHOOL RESOURCE OFFICERS;

22 (e) A STATEWIDE ASSOCIATION OF SCHOOL EXECUTIVES;

23 (f) A STATEWIDE ASSOCIATION OF TEACHERS;

24 (g) A STATEWIDE ASSOCIATION THAT ADVOCATES ON BEHALF OF
25 CHILDREN WITH DISABILITIES;

26 (h) A STATEWIDE ASSOCIATION OF PARENTS;

27 (i) THE COLORADO COMMISSION ON CRIMINAL AND JUVENILE
28 JUSTICE CREATED IN SECTION 16-11.3-102, C.R.S.; AND

1 (j) THE RESTORATIVE JUSTICE COORDINATING COUNCIL CREATED
2 IN SECTION 19-2-213, C.R.S.

3 (3) FOR THE PURPOSES OF SECTION 22-32-147, C.R.S., THE
4 TRAINING CURRICULUM CREATED PURSUANT TO SUBSECTION (1) OF THIS
5 SECTION SHALL INCLUDE A MEANS OF RECOGNIZING AND IDENTIFYING
6 PEACE OFFICERS WHO SUCCESSFULLY COMPLETE THE TRAINING
7 CURRICULUM.

8 (4) IN CREATING THE TRAINING CURRICULUM DESCRIBED IN
9 SUBSECTION (1) OF THIS SECTION, THE P.O.S.T. BOARD MAY INCLUDE
10 PROVISIONS TO ALLOW FOR THE AWARDING OF CREDIT TO A PEACE OFFICER
11 WHO HAS SUCCESSFULLY COMPLETED A SCHOOL RESOURCE OFFICER
12 CERTIFICATION CURRICULUM OFFERED BY ONE OR MORE PUBLIC OR
13 PRIVATE ENTITIES, WHICH ENTITIES SHALL BE IDENTIFIED BY THE P.O.S.T.
14 BOARD.

15 **SECTION 11.** In Colorado Revised Statutes, 22-11-302, **amend**
16 (1) (e); and **add** (1) (f) as follows:

17 **22-11-302. School district accountability committees - powers**
18 **and duties.** (1) Each school district accountability committee shall have
19 the following powers and duties:

20 (e) TO CONSIDER INPUT AND RECOMMENDATIONS FROM the school
21 accountability committee ~~for the principal's~~ OF EACH school ~~shall provide~~
22 ~~input and recommendations to the district accountability committee and~~
23 ~~the district administration concerning the principal's evaluation~~ OF THE
24 SCHOOL DISTRICT TO FACILITATE THE EVALUATION OF THE PERFORMANCE
25 OF THE SCHOOL'S PRINCIPAL FOR THE PURPOSES OF ARTICLE 9 OF THIS
26 TITLE; AND

27 (f) TO PROVIDE INPUT TO THE LOCAL SCHOOL BOARD CONCERNING
28 THE CLIMATE AND ENVIRONMENT OF EACH SCHOOL OF THE SCHOOL

1 DISTRICT AND THE CREATION AND ENFORCEMENT OF A SCHOOL CONDUCT
2 AND DISCIPLINE CODE.

3 **SECTION 12.** In Colorado Revised Statutes, 22-11-503, **amend**
4 (3) (c) as follows:

5 **22-11-503. Performance reports - contents - rules.** (3) In
6 addition to any information specified by rule of the state board, each
7 school performance report shall include the following information
8 concerning the operations and environment of the public school that is the
9 subject of the report:

10 (c) As described in state board rule, the occurrence of each of the
11 ~~following~~ types of incidents DESCRIBED IN SECTION 22-32-146 (2) (f),
12 expressed as a number and as a percentage of the total occurrences of all
13 of the incidents;

14 ~~(I) Substance abuse - drugs;~~

15 ~~(II) Substance abuse - alcohol;~~

16 ~~(III) Substance abuse - tobacco;~~

17 ~~(IV) Felony assaults;~~

18 ~~(V) Fights;~~

19 ~~(VI) Possession of dangerous weapons; and~~

20 ~~(VII) Other violations of the code of conduct at the public school;~~

21 **SECTION 13.** In Colorado Revised Statutes, 22-2-117, **amend**
22 (1.5) as follows:

23 **22-2-117. Additional power - state board - waiver of**
24 **requirements - rules.** (1.5) Notwithstanding any provision of this
25 section or any other provision of law, the state board shall not waive
26 requirements contained in article 11 of this title or ~~sections 22-7-409,~~
27 ~~22-32-105, 22-32-109 (1) (bb) (I) and (2), 22-32-109.1 (2) (a), and~~
28 ~~22-33-104 (4)~~ SECTIONS 22-7-409, 22-32-105, 22-32-109 (1) (bb) (I) AND

1 (2), 22-32-109.1 (2) (a), 22-32-145, 22-32-146, 22-32-147, AND 22-33-104
2 (4).

3 **SECTION 14.** In Colorado Revised Statutes, 22-30.5-116,
4 **amend** (2) as follows:

5 **22-30.5-116. Charter schools - school bullying policies**
6 **required.** (2) For the purposes of this section, "bullying" shall have the
7 same meaning as set forth in ~~section 22-32-109.1 (2) (a) (X) (B)~~ SECTION
8 22-32-145 (1).

9 **SECTION 15.** In Colorado Revised Statutes, 22-30.5-502,
10 **amend** (2.5) as follows:

11 **22-30.5-502. Definitions.** As used in this part 5, unless the
12 context otherwise requires:

13 (2.5) "Bullying" shall have the same meaning as set forth in
14 ~~section 22-32-109.1 (2) (a) (X) (B)~~ SECTION 22-32-145 (1).

15 **SECTION 16.** In Colorado Revised Statutes, 18-1.3-204, **amend**
16 (2.3) (a) as follows:

17 **18-1.3-204. Conditions of probation.** (2.3) (a) When granting
18 probation, the court may, as a condition of probation, require any
19 defendant who is less than eighteen years of age at the time of sentencing
20 to attend school or an educational program or to work toward the
21 attainment of a high school diploma or a GED, as that term is defined in
22 section 22-33-102 ~~(4.5)~~ (8), C.R.S.; except that the court shall not require
23 any such juvenile to attend a school from which he or she has been
24 expelled without the prior approval of that school's local board of
25 education.

26 **SECTION 17.** In Colorado Revised Statutes, **amend** 19-2-207 as
27 follows:

28 **19-2-207. Juvenile parole board - authority.** The board shall

1 have the authority to grant, deny, defer, suspend, revoke, or specify or
2 modify the conditions of any parole for any juvenile committed to the
3 department of human services under section 19-2-601 or 19-2-907 in such
4 a manner as is in the best interests of the juvenile and the public. In
5 addition to any other conditions, the board may require, as a condition of
6 parole, any adjudicated juvenile to attend school or an educational
7 program or to work toward the attainment of a high school diploma or a
8 GED, as that term is defined in section 22-33-102 ~~(4.5)~~ (8), C.R.S.;
9 except that the board shall not require any such juvenile to attend a school
10 from which he or she has been expelled without the prior approval of that
11 school's local board of education. The board shall promulgate rules that
12 establish criteria under which its parole decisions are made. The board
13 shall have the duties and responsibilities specified in part 10 of this
14 article.

15 **SECTION 18.** In Colorado Revised Statutes, 19-2-1002, **amend**
16 (1) (a), (3) (b) (I), and (9) (c) (I) as follows:

17 **19-2-1002. Juvenile parole. (1) Juvenile parole board -**
18 **hearing panels authority.** (a) The juvenile parole board, referred to in
19 this part 10 as the "board", established pursuant to section 19-2-206 is
20 authorized to grant, deny, defer, suspend, revoke, or specify or modify the
21 conditions of any parole for any juvenile committed to the department of
22 human services as provided in sections 19-2-601 and 19-2-907. In
23 addition to any other conditions, the board may require, as a condition of
24 parole, any adjudicated juvenile to attend school or an educational
25 program or to work toward the attainment of a high school diploma or a
26 GED, as that term is defined in section 22-33-102 ~~(4.5)~~ (8), C.R.S.;
27 except that the board shall not require any such juvenile to attend a school
28 from which he or she has been expelled without the prior approval of that

1 school's local board of education. The board may modify any of its
2 decisions, or those of the hearing panel, except an order of discharge.

3 (3) (b) (I) In addition to any other conditions, the hearing panel
4 may require, as a condition of parole, any adjudicated juvenile to attend
5 school or an educational program or to work toward the attainment of a
6 high school diploma or a GED, as that term is defined in section
7 22-33-102 ~~(4.5)~~(8), C.R.S.; except that the hearing panel shall not require
8 any such juvenile to attend a school from which he or she has been
9 expelled without the prior approval of that school's local board of
10 education.

11 (9) **Parole discharge.** (c) The board may discharge a juvenile
12 from parole before completion of the mandatory six-month parole period
13 when the board finds that the juvenile meets, at a minimum, all of the
14 following conditions of special achievement:

15 (I) Graduation from a public or accredited nonpublic high school
16 or completion of a GED, as that term is defined in section 22-33-102 ~~(4.5)~~
17 (8), C.R.S.;

18 **SECTION 19.** In Colorado Revised Statutes, **amend** 25-9-106.5
19 as follows:

20 **25-9-106.5. Education and experience - substitution allowed.**
21 Water and wastewater facility operator applicants must have a high
22 school diploma or have successfully completed the GED as defined in
23 section 22-33-102 ~~(4.5)~~(8), C.R.S.; except that experience or relevant
24 training may be substituted for the high school diploma or GED.
25 Education, training as established under section 25-9-104 (2), and
26 cross-experience may be substituted for experience requirements for
27 certification as a water facility operator, as a water distribution system
28 operator, as a domestic wastewater facility operator, as a wastewater

1 collection system operator, as an industrial wastewater treatment facility
2 operator, or as a multiple facility operator; except that at least fifty
3 percent of any experience requirement shall be met by actual on-site
4 operating experience in a water facility or a wastewater facility, as the
5 case may be. For the lowest classification of operator in each category,
6 the board may establish rules allowing complete substitution of education
7 for experience for any applicant who passes the applicable examination.
8 For purposes of this section, "cross-experience" means that experience as
9 a wastewater treatment facility operator may be substituted for experience
10 requirements for certification as water treatment facility operator and vice
11 versa.

12 **SECTION 20.** In Colorado Revised Statutes, 22-37-103, **amend**
13 (2) and (3) as follows:

14 **22-37-103. Definitions.** As used in this article, unless the context
15 otherwise requires:

16 (2) "In-home suspension" means a ~~suspension pursuant to section~~
17 ~~22-33-105 in~~ PERIOD OF TIME DURING which, PURSUANT TO SECTION
18 22-33-105, the student is ~~suspended~~ PROHIBITED from ~~participation~~
19 PARTICIPATING in regular school activities but ~~receives continuous~~
20 CONTINUES TO RECEIVE educational instruction, supervision, and
21 discipline in a home environment.

22 (3) "In-school suspension" means a ~~suspension pursuant to section~~
23 ~~22-33-105 in~~ PERIOD OF TIME DURING which, PURSUANT TO SECTION
24 22-33-105, the student is ~~suspended~~ PROHIBITED from ~~participation~~
25 PARTICIPATING in regular school activities but remains in the school
26 environment and ~~receives continuous~~ CONTINUES TO RECEIVE educational
27 instruction, supervision, and discipline.

28 **SECTION 21.** In Colorado Revised Statutes, 22-33-203, **amend**

1 (2) (b) and (3) as follows:

2 **22-33-203. Educational alternatives for expelled students.**

3 (2) (b) The educational services provided pursuant to this section are
4 designed to provide a second chance for the student to succeed in
5 achieving an education. While receiving educational services, a student
6 may be suspended or expelled pursuant to the CONDUCT AND discipline
7 code of the school district providing the educational services and the
8 provisions of part 1 of this article. Except as required by federal law, the
9 expelling school district is not required to provide educational services to
10 any student who is suspended or expelled while receiving educational
11 services pursuant to this section until the period of the suspension or
12 expulsion is completed.

13 (3) If a student is expelled ~~for the remainder of the school year~~
14 and the student is not receiving educational services pursuant to this
15 section, the school district shall contact the expelled student's parent or
16 guardian at least once every sixty days until the beginning of the next
17 school year to determine whether the student is receiving educational
18 services from some other source; except that the school district need not
19 contact a student's parent or guardian after the student is enrolled in
20 another school district or in an independent or parochial school or if the
21 student is committed to the department of human services or is sentenced
22 pursuant to article 2 of title 19, C.R.S.

23 **SECTION 22.** In Colorado Revised Statutes, 22-30.5-505,
24 **amend** (9) as follows:

25 **22-30.5-505. State charter school institute - institute board -**
26 **appointment - powers and duties - rules.** (9) The institute shall ensure
27 that each institute charter school addresses the expulsion, suspension, and
28 education of expelled or suspended students in a manner consistent with

1 the intents and purposes of ~~sections 22-33-106 and 22-33-203~~ SECTIONS
2 22-33-105, 22-33-106, AND 22-33-203.

3 **SECTION 23.** In Colorado Revised Statutes, 22-38-103, **amend**
4 (2) as follows:

5 **22-38-103. Definitions.** As used in this article, unless the context
6 otherwise requires:

7 (2) "Expelled student" means a student who ~~is in the sixth,~~
8 ~~seventh, eighth, or ninth grade, who is under seventeen years of age, and~~
9 ~~who~~ has been expelled from school pursuant to section 22-33-105. ~~for a~~
10 ~~period in excess of thirty days.~~

11 **SECTION 24.** In Colorado Revised Statutes, 22-93-101, **amend**
12 (1) as follows:

13 **22-93-101. Definitions.** As used in this article, unless the context
14 otherwise requires:

15 (1) "Bullying" shall have the same meaning as set forth in ~~section~~
16 ~~22-32-109.1 (2) (a) (X) (B)~~ SECTION 22-32-145 (1) (a).

17 **SECTION 25. Act subject to petition - effective date.** This act
18 shall take effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly (August
20 7, 2012, if adjournment sine die is on May 9, 2012); except that, if a
21 referendum petition is filed pursuant to section 1 (3) of article V of the
22 state constitution against this act or an item, section, or part of this act
23 within such period, then the act, item, section, or part shall not take effect
24 unless approved by the people at the general election to be held in
25 November 2012 and shall take effect on the date of the official
26 declaration of the vote thereon by the governor.