

CHAPTER 160

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 19-1194

BY REPRESENTATIVE(S) Lontine and Larson, Benavidez, Bird, Buckner, Buentello, Caraveo, Coleman, Cutter, Duran, Esgar, Exum, Froelich, Gonzales-Gutierrez, Hansen, Herod, Hooton, Jackson, Kennedy, Kipp, Kraft-Tharp, McCluskie, Michaelson Jenet, Mullica, Sirota, Snyder, Tipper, Titone, Valdez A., Valdez D., Weissman; also SENATOR(S) Priola and Fields, Bridges, Court, Fenberg, Gonzales, Moreno, Pettersen, Story, Williams A., Winter.

AN ACT**CONCERNING THE DISCIPLINE OF PRESCHOOL THROUGH SECOND GRADE STUDENTS ENROLLED IN PUBLICLY FUNDED EDUCATION PROGRAMS.**

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

SECTION 1. Legislative declaration. (1) The general assembly finds that:

(a) Children in preschool and early elementary years are at a critical stage of development, and a child's early experiences in school have a dramatic impact on the child's health and future success in school;

(b) The practice of out-of-school suspension or expulsion of a young child may have profound consequences for the child, as these exclusionary measures come at a time when the child is supposed to be forming positive associations with school and building positive relationships with teachers and peers; and

(c) Research indicates that young children who are suspended or expelled from school are several times more likely to experience disciplinary action later in their academic careers, drop out or disengage from high school, report feeling disconnected from school, and be incarcerated later in life.

(2) The general assembly therefore declares that the standards for suspension and expulsion of young children should be developmentally appropriate, and implementing inclusive discipline practices, rather than out-of-school suspension and expulsion, is an important step in supporting a positive school experience for young children in preschool and early elementary programs that will result in greater long-term success for the child.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

SECTION 2. In Colorado Revised Statutes, **add 22-33-106.1** as follows:

22-33-106.1. Suspension - expulsion - preschool through second grade - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CHARTER SCHOOL" MEANS A CHARTER SCHOOL THAT IS AUTHORIZED BY A SCHOOL DISTRICT BOARD OF EDUCATION PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE 22 OR AN INSTITUTE CHARTER SCHOOL THAT IS AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

(b) "ENROLLING ENTITY" MEANS:

(I) A COMMUNITY-BASED PRESCHOOL PROGRAM THAT INCLUDES STUDENTS WHO ARE FUNDED THROUGH THE "COLORADO PRESCHOOL PROGRAM ACT", ARTICLE 28 OF THIS TITLE 22, OR STUDENTS WHO ARE FUNDED WITH STATE OR FEDERAL MONEY TO EDUCATE CHILDREN WITH DISABILITIES;

(II) A SCHOOL DISTRICT; OR

(III) A CHARTER SCHOOL.

(2) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE 33 TO THE CONTRARY, AN ENROLLING ENTITY MAY IMPOSE AN OUT-OF-SCHOOL SUSPENSION OR EXPEL A STUDENT ENROLLED IN PRESCHOOL, KINDERGARTEN, FIRST GRADE, OR SECOND GRADE ONLY IF:

(a) THE ENROLLING ENTITY DETERMINES THAT THE STUDENT HAS ENGAGED IN CONDUCT ON SCHOOL GROUNDS, IN A SCHOOL VEHICLE, OR AT A SCHOOL ACTIVITY OR SANCTIONED EVENT THAT:

(I) INVOLVES THE POSSESSION OF A DANGEROUS WEAPON WITHOUT THE AUTHORIZATION OF THE PUBLIC SCHOOL OR ENROLLING ENTITY, IF DIFFERENT;

(II) INVOLVES THE USE, POSSESSION, OR SALE OF A DRUG OR CONTROLLED SUBSTANCE, AS DEFINED IN SECTION 18-18-102 (5); OR

(III) ENDANGERS THE HEALTH OR SAFETY OF OTHERS;

(b) THE ENROLLING ENTITY DETERMINES THAT FAILURE TO REMOVE THE STUDENT FROM THE SCHOOL BUILDING WOULD CREATE A SAFETY THREAT THAT CANNOT OTHERWISE BE ADDRESSED; AND

(c) THE ENROLLING ENTITY, ON A CASE-BY-CASE BASIS, CONSIDERS EACH OF THE FACTORS SET FORTH IN SECTION 22-33-106(1.2) BEFORE SUSPENDING OR EXPELLING THE STUDENT. THE ENROLLING ENTITY SHALL DOCUMENT ANY ALTERNATIVE BEHAVIORAL AND DISCIPLINARY INTERVENTIONS THAT IT EMPLOYS BEFORE SUSPENDING OR EXPELLING THE STUDENT.

(3) IF AN ENROLLING ENTITY IMPOSES AN OUT-OF-SCHOOL SUSPENSION ON A STUDENT WHO MEETS THE CRITERIA SPECIFIED IN SUBSECTION (2) OF THIS SECTION, THE OUT-OF-SCHOOL SUSPENSION SHALL NOT EXCEED THREE SCHOOL DAYS UNLESS THE EXECUTIVE OFFICER OR CHIEF ADMINISTRATIVE OFFICER OF THE ENROLLING ENTITY, OR DESIGNEE OF EITHER, DETERMINES THAT A LONGER PERIOD OF SUSPENSION IS NECESSARY TO RESOLVE THE SAFETY THREAT OR RECOMMENDS THAT THE STUDENT BE EXPELLED IN ACCORDANCE WITH SECTION 22-33-105 (2)(c).

(4) THIS SECTION DOES NOT PREVENT AN ENROLLING ENTITY FROM EXCLUDING, REMOVING, OR DISENROLLING A STUDENT FOR REASONS UNRELATED TO STUDENT DISCIPLINE.

(5) FOR PURPOSES OF THIS SECTION, IF AN ENROLLING ENTITY REQUESTS THAT A PARENT REMOVE A CHILD FOR DISCIPLINARY REASONS FROM THE SCHOOL GROUNDS FOR ANY LENGTH OF TIME DURING A SCHOOL DAY, THE REQUEST CONSTITUTES A SUSPENSION AND IS SUBJECT TO THE REQUIREMENTS OF THIS SECTION.

(6) THE STATE BOARD SHALL ANNUALLY REVIEW THE DATA CONCERNING THE NUMBER OF STUDENTS WHO ARE SUSPENDED OR EXPELLED PURSUANT TO THIS SECTION AND, IF AVAILABLE, THE REASONS FOR THE SUSPENSIONS AND EXPULSIONS.

SECTION 3. In Colorado Revised Statutes, 22-2-117, **amend** (1)(b)(VI) and (1)(b)(VII); and **add** (1)(b)(VIII) as follows:

22-2-117. Additional power - state board - waiver of requirements - rules.

(1) (b) The state board shall not waive any of the requirements specified in any of the following statutory provisions:

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305; ~~or~~

(VII) Any provisions of section 22-1-130, relating to notification to parents of alleged criminal conduct by school district employees; ~~or~~

(VIII) SECTION 22-33-106.1, CONCERNING SUSPENSION AND EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

SECTION 4. In Colorado Revised Statutes, 22-30.5-104, **amend** (6)(c)(VI) and (6)(c)(VII); and **add** (6)(c)(VIII) as follows:

22-30.5-104. Charter school - requirements - authority - rules. (6) (c) A school district, on behalf of a charter school, may apply to the state board for a waiver of a state statute or state rule that is not an automatic waiver. Notwithstanding any provision of this subsection (6) to the contrary, the state board may not waive any statute or rule relating to:

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305; ~~or~~

(VII) Any provisions of section 22-1-130, relating to notification to parents of alleged criminal conduct by charter school employees; ~~or~~

(VIII) SECTION 22-33-106.1, CONCERNING SUSPENSION AND EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

SECTION 5. In Colorado Revised Statutes, 22-30.5-106, **amend** (1)(p) as follows:

22-30.5-106. Charter application - contents. (1) The charter school application is a proposed agreement upon which the charter applicant and the chartering local board of education negotiate a charter contract. At a minimum, each charter school application includes:

(p) Policies regarding student discipline, expulsion, and suspension that are consistent with the intent and purpose of ~~section~~ SECTIONS 22-33-106 AND 22-33-106.1, provide adequately for the safety of students and staff, and provide a level of due process for students that, at a minimum, complies with the requirements of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

SECTION 6. In Colorado Revised Statutes, 22-30.5-505, **amend** (9) as follows:

22-30.5-505. State charter school institute - institute board - appointment - powers and duties - rules. (9) The institute shall ensure that each institute charter school addresses the expulsion, suspension, and education of expelled or suspended students in a manner consistent with the intents and purposes of sections 22-33-105, 22-33-106, **22-33-106.1**, and 22-33-203.

SECTION 7. In Colorado Revised Statutes, 22-30.5-507, **amend** (7)(b)(VI) and (7)(b)(VII); and **add** (7)(b)(VIII) as follows:

22-30.5-507. Institute charter school - requirements - authority - rules. (7) (b) An institute charter school may apply to the state board, through the institute, for a waiver of state statutes and state rules that are not automatic waivers. The state board may waive state statutory requirements or rules promulgated by the state board; except that the state board may not waive any statute or rule relating to:

(VI) The requirement to post on the internet the statutes for which waivers are granted as provided in section 22-44-305; ~~or~~

(VII) Any provisions of section 22-1-130, relating to notification to parents of alleged criminal conduct by institute charter school employees; OR

(VIII) SECTION 22-33-106.1, CONCERNING SUSPENSION AND EXPULSION OF STUDENTS IN PRESCHOOL THROUGH SECOND GRADE.

SECTION 8. In Colorado Revised Statutes, 22-30.5-509, **amend** (1)(p) as follows:

22-30.5-509. Institute charter school application - contents. (1) The institute charter school application is a proposed agreement upon which the institute charter applicant and the institute negotiate a charter contract. At a minimum, each institute charter school application includes:

(p) Policies regarding student discipline, expulsion, and suspension that are consistent with the intent and purpose of ~~section~~ SECTIONS 22-33-106 AND 22-33-106.1, provide adequately for the safety of students and staff, and provide a level of due process for students that, at a minimum, complies with the requirements of the federal "Individuals with Disabilities Education Act", 20 U.S.C. sec. 1400 et seq.;

SECTION 9. In Colorado Revised Statutes, 22-32-109.1, **amend** (2)(a)(I) introductory portion, (2)(a)(I)(E), (2)(a)(II) introductory portion, (2)(a)(II)(C), and (2)(a)(II)(D); and **add** (2)(a)(II)(E) as follows:

22-32-109.1. Board of education - specific powers and duties - safe school plan - conduct and discipline code - safe school reporting requirements - school response framework - school resource officers - definitions - repeal. (2) **Safe school plan.** In order to provide a learning environment that is safe, conducive to the learning process, and free from unnecessary disruption, each school district board of education or institute charter school board for a charter school authorized by the charter school institute shall, following consultation with the school district accountability committee and school accountability committees, parents, teachers, administrators, students, student councils where available, and, where appropriate, the community at large, adopt and implement a safe school plan, or review and revise, as necessary in response to any relevant data collected by the school district, any existing plans or policies already in effect. In addition to the aforementioned parties, each school district board of education, in adopting and implementing its safe school plan, may consult with victims' advocacy organizations, school psychologists, local law enforcement, and community partners. The plan, at a minimum, must include the following:

(a) **Conduct and discipline code.** (I) A concisely written conduct and discipline code that shall be enforced uniformly, fairly, and consistently for all students. Copies of the code shall be provided to each student upon enrollment at the PRESCHOOL, elementary, middle, and high school levels and shall be posted or kept on file at each public school in the school district. The school district shall take reasonable measures to ensure that each student of each public school in the school district is familiar with the code. The code shall include, but need not be limited to:

(E) 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, AND 22-33-106.1;

(II) In creating and enforcing a school conduct and discipline code pursuant to ~~subparagraph (I) of this paragraph (a)~~ SUBSECTION (2)(a)(I) OF THIS SECTION, each school district board of education, on and after August 1, 2013, shall:

(C) Ensure that the implementation of the code complies with all state and federal laws concerning the education of students with disabilities, as defined in section 22-20-103 (5); ~~and~~

(D) Ensure that, in implementing the code, each school of the school district shows due consideration of the impact of certain violations of the code upon victims

of such violations, in accordance with the provisions of Title IX of the United States Code and other state and federal laws; AND

(E) ENSURE THAT, IN IMPLEMENTING THE CODE, EACH SCHOOL OF THE SCHOOL DISTRICT COMPLIES WITH THE REQUIREMENTS OF SECTION 22-33-106.1.

SECTION 10. Act subject to petition - effective date. This act takes effect July 1, 2020; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: May 13, 2019