

Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 26-0005.01 Jed Franklin x5484

SENATE BILL 26-125

SENATE SPONSORSHIP

Kolker and Marchman,

HOUSE SPONSORSHIP

Bacon and Phillips,

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING DISABILITY RIGHTS PROTECTIONS 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://leg.colorado.gov>.)

The bill prohibits a school district, a charter school authorized by a school district, a charter school authorized by the state charter school institute, the state charter school institute, or a board of cooperative services that operates one or more public schools (local education provider or LEP) from discriminating against an individual who has a disability and who is entitled to a free public education (qualified student with a disability) based on the student's disability.

The bill requires an LEP to allow a qualified student with a

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

disability to participate in and enjoy the benefits of the provider's programs, services, or activities in the same manner as a student without a disability. When providing any aid, benefit, or service, an LEP shall not, based on disability:

- Deny a qualified student with a disability an opportunity to participate in or benefit from the aid, benefit, or service in a manner that is equal to that afforded to other students;
- Provide a qualified student with a disability with an aid, benefit, or service that is not as effective as that provided to other students;
- Provide different or separate aids, benefits, or services to a qualified student with a disability unless such action is necessary to provide a qualified student with a disability with aids, benefits, or services that are as effective as those provided to other students;
- Aid or perpetuate discrimination against a qualified student with a disability by providing significant assistance to an agency, organization, or person that discriminates on the basis of disability in providing any aid, benefit, or service to beneficiaries of the LEP's educational program or activity; or
- Otherwise limit a qualified student with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by students without disabilities who receive an educational aid, benefit, or service.

The bill prohibits an LEP from using criteria or methods of administration that:

- Have the effect of subjecting a qualified student with a disability to discrimination on the basis of their disability;
- Have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the LEP's program or activity with respect to a qualified student with a disability; or
- Perpetuate the discrimination of another LEP if both LEPs are subject to common administrative control or are agencies of the state.

In determining the site or location of a facility, an LEP may not make selections that:

- Exclude a qualified student with a disability from a facility or deny a qualified student with a disability the benefits of a facility, or that otherwise subject a qualified student with a disability to discrimination; or
- Have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to a qualified student with

a disability.

The bill requires an LEP to:

- Adopt a disability rights grievance process, which is satisfied by following the grievance procedures in section 504 of the federal "Rehabilitation Act of 1973" and to designate at least one responsible employee to oversee compliance with the provisions of the bill relating to discrimination and to serve as a point of contact for students and families;
- Make a reasonable modification to a policy, practice, or procedure when the modification is necessary to avoid discriminating against a qualified student with a disability on the basis of disability;
- Ensure that a communication to a qualified student with a disability is as effective as a communication to a student without a disability and to furnish appropriate auxiliary aids and services where necessary to afford a qualified student with a disability an equal opportunity to participate in and enjoy the benefits of a service, program, or activity of the LEP;
- Ensure that a qualified student with a disability is not denied access to the LEP's services, programs, or activities because of facilities inaccessible to a qualified student with a disability;
- Provide a free and appropriate public education to each qualified student with a disability who is in the LEP's jurisdiction, regardless of the nature or severity of the student's disability and if necessary, ensure adequate transportation to and from any placement premises;
- Provide for the free and appropriate public education of each qualified student with a disability with students without disabilities to the maximum extent appropriate to the needs of the qualified student with a disability;
- Place a qualified student with a disability in the regular educational environment operated by the LEP unless it is demonstrated that the education of the student in that environment with the use of supplementary aids and services cannot be achieved satisfactorily;
- Provide nonacademic and extracurricular services and activities in such a manner as is necessary to afford a qualified student with a disability an equal opportunity to participate in the services and activities;
- At least annually, identify and locate every qualified student with a disability residing in the LEP's jurisdiction who is not receiving a free and appropriate public

education and take appropriate steps, with the permission of the qualified student with a disability and their parent, to evaluate the student; and

- Ensure that a qualified student with a disability is free from harassment that is sufficiently serious to create a hostile environment or interfere with or limit the student's ability to participate in or benefit from the LEP's services, activities, or opportunities.

The bill requires the department of education (department) to provide training and technical assistance to LEPs about the requirements of the bill.

The bill establishes a complaint process and specifies that the department may investigate and resolve complaints of alleged violations of the provisions of the bill pursuant to the complaint process.

The bill specifies the circumstances under which an individual may file a complaint with the department.

If the department finds a violation pursuant to the bill, it may order specified remedies as determined necessary by the department, to remedy violations occurring pursuant to the bill and to prospectively ensure compliance.

The state board of education (board) may withhold state funds from an LEP if the board determines that the LEP has intentionally violated the provisions of the bill and demonstrated an unwillingness to enter into a corrective action plan to address the violation. No later than December 31, 2026, the board shall adopt rules that establish procedures for the withholding of funds.

The bill prohibits an LEP from coercing, intimidating, threatening, or discriminating against any individual for the purpose of interfering with any right or privilege secured by the bill, the federal "Individuals with Disabilities Education Act", the ADA, the "Exceptional Children's Educational Act", or the "Protection of Students from Restraint and Seclusion Act" (anti-discrimination laws) because an individual:

- Makes, has made, or because an LEP believes an individual has made or will make, a complaint pursuant to an anti-discrimination law; or
- Testifies, assists, or participates in any manner in an investigation or proceeding regarding an allegation or complaint pursuant to an anti-discrimination law.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** article 29.5 to
3 title 22 as follows:

1 **ARTICLE 29.5**

2 **Disability Rights Protections in Public Elementary and Secondary**
3 **Schools**

4 **22-29.5-101. Legislative declaration.**

5 (1) THE GENERAL ASSEMBLY FINDS AND DECLARES THAT:

6 (a) SECTION 2 OF ARTICLE IX OF THE STATE CONSTITUTION
7 REQUIRES THE STATE TO MAINTAIN A THOROUGH AND UNIFORM SYSTEM OF
8 FREE PUBLIC SCHOOLS THAT SERVES ALL CHILDREN IN COLORADO,
9 INCLUDING STUDENTS WITH DISABILITIES;

10 (b) ENSURING EQUAL ACCESS TO EDUCATIONAL PROGRAMS,
11 SERVICES, AND ACTIVITIES IS ESSENTIAL TO FULFILLING THIS
12 CONSTITUTIONAL MANDATE, ADVANCING THE STATE'S LONGSTANDING
13 COMMITMENT TO EDUCATIONAL EQUITY AND NONDISCRIMINATION,
14 PROMOTING ACADEMIC ACHIEVEMENT AMONG STUDENTS WITH
15 DISABILITIES, AND CLOSING OPPORTUNITY GAPS;

16 (c) COLORADO HAS A STRONG CONSTITUTIONAL TRADITION OF
17 PROTECTING INDIVIDUAL RIGHTS AS SET FORTH IN ARTICLE 2 OF THE STATE
18 CONSTITUTION, INCLUDING THE GUARANTEES OF EQUALITY OF RIGHTS,
19 DUE PROCESS OF LAW, AND SECURITY OF PERSONS;

20 (d) STUDENTS WITH DISABILITIES HAVE HISTORICALLY RELIED ON
21 FEDERAL CIVIL RIGHTS LAWS, INCLUDING SECTION 504 OF THE FEDERAL
22 "REHABILITATION ACT OF 1973" AND TITLE II OF THE FEDERAL
23 "AMERICANS WITH DISABILITIES ACT OF 1990", TO SAFEGUARD THEIR
24 ACCESS TO EDUCATIONAL OPPORTUNITIES AND PROTECT THEMSELVES
25 FROM DISCRIMINATION;

26 (e) INCORPORATING CORE PROTECTIONS OF THESE FEDERAL LAWS
27 INTO STATE STATUTE STRENGTHENS COLORADO'S ENFORCEMENT

1 FRAMEWORK, ENSURES CONTINUITY OF RIGHTS REGARDLESS OF CHANGES
2 TO FEDERAL ENFORCEMENT PRIORITIES, AND PROMOTES CLARITY AND
3 CONSISTENCY FOR STUDENTS, FAMILIES, AND LOCAL EDUCATION
4 PROVIDERS;

5 (f) IT IS IN THE INTEREST OF THE STATE TO CODIFY FEDERAL
6 DISABILITY-BASED NONDISCRIMINATION REQUIREMENTS APPLICABLE TO
7 PUBLIC ELEMENTARY AND SECONDARY EDUCATION, TO AFFIRM THE RIGHT
8 OF EACH QUALIFIED STUDENT WITH A DISABILITY TO A FREE APPROPRIATE
9 PUBLIC EDUCATION, AND TO ESTABLISH CLEAR OBLIGATIONS FOR LOCAL
10 EDUCATION PROVIDERS CONCERNING IDENTIFICATION, EVALUATION,
11 EDUCATIONAL PLACEMENT, REASONABLE ACCOMMODATIONS, EFFECTIVE
12 COMMUNICATION, PHYSICAL ACCESSIBILITY, AND PROTECTIONS AGAINST
13 HARASSMENT AND RETALIATION; AND

14 (g) PROVIDING STATE-LEVEL REMEDIES, OVERSIGHT, AND
15 ENFORCEMENT MECHANISMS, INCLUDING A UNIFORM COMPLAINT PROCESS
16 ADMINISTERED BY THE STATE DEPARTMENT OF EDUCATION, COMPLEMENTS
17 FEDERAL SAFEGUARDS, PROMOTES TIMELY AND LOCAL RESOLUTION OF
18 CONCERNS, AND ENSURES THAT STUDENTS WITH DISABILITIES HAVE
19 RELIABLE AND ACCESSIBLE AVENUES FOR ADDRESSING VIOLATIONS OF
20 THEIR RIGHTS.

21 (2) THE GENERAL ASSEMBLY FURTHER FINDS AND DECLARES THAT
22 THE PURPOSE OF THIS ARTICLE 29.5 IS TO:

23 (a) UPHOLD THE STATE'S CONSTITUTIONAL OBLIGATION TO
24 PROVIDE A THOROUGH AND UNIFORM SYSTEM OF FREE PUBLIC SCHOOLS;

25 (b) AFFIRM THE STATE'S COMMITMENT TO EQUAL EDUCATIONAL
26 OPPORTUNITY AND NONDISCRIMINATION FOR STUDENTS WITH
27 DISABILITIES;

1 (c) ENSURE THAT PUBLIC SCHOOLS PROVIDE QUALIFIED STUDENTS
2 WITH DISABILITIES WITH THE AIDS, BENEFITS, SERVICES, AND
3 OPPORTUNITIES NECESSARY TO PARTICIPATE FULLY AND MEANINGFULLY
4 IN EDUCATIONAL PROGRAMS;

5 (d) CREATE CLEAR, CONSISTENT STATEWIDE STANDARDS AND
6 PROCEDURES THAT ALIGN WITH FEDERAL REQUIREMENTS WHILE
7 PROVIDING INDEPENDENT STATE PROTECTIONS; AND

8 (e) ENSURE THAT ALL STUDENTS WITH DISABILITIES IN THE STATE
9 ARE EDUCATED IN ENVIRONMENTS THAT RESPECT THEIR DIGNITY,
10 INDEPENDENCE, AND RIGHT TO PARTICIPATE FULLY IN THE LIFE OF THEIR
11 SCHOOLS AND COMMUNITIES.

12 **22-29.5-102. Definitions.**

13 AS USED IN THIS ARTICLE 29.5, UNLESS THE CONTEXT OTHERWISE
14 REQUIRES:

15 (1) "AMERICANS WITH DISABILITIES ACT" OR "ADA" MEANS THE
16 FEDERAL "AMERICANS WITH DISABILITIES ACT OF 1990", 42 U.S.C. SEC.
17 12101 ET SEQ.

18 (2) "APPROPRIATE PUBLIC EDUCATION" MEANS THE PROVISION OF
19 PUBLIC EDUCATION AND RELATED AIDS AND SERVICES THAT ARE DESIGNED
20 TO MEET THE INDIVIDUAL EDUCATIONAL NEEDS OF A QUALIFIED STUDENT
21 WITH A DISABILITY AS ADEQUATELY AS THE NEEDS OF A STUDENT
22 WITHOUT A DISABILITY AND ARE BASED ON ADHERENCE TO PROCEDURES
23 THAT SATISFY THE REQUIREMENTS OF THIS ARTICLE 29.5.

24 (3) "DAYS" MEANS CALENDAR DAYS.

25 (4) "DEPARTMENT" MEANS THE DEPARTMENT OF EDUCATION
26 CREATED AND EXISTING PURSUANT TO SECTION 24-1-115.

27 (5) "DISABILITY" MEANS A PHYSICAL OR MENTAL IMPAIRMENT

1 THAT SUBSTANTIALLY LIMITS ONE OR MORE MAJOR LIFE ACTIVITIES, A
2 RECORD OF SUCH AN IMPAIRMENT, OR BEING REGARDED AS HAVING SUCH
3 AN IMPAIRMENT.

4 (6) "FACILITIES" MEANS ALL OR ANY PORTION OF BUILDINGS,
5 STRUCTURES, EQUIPMENT, ROADS, WALKS, PARKING LOTS, OR OTHER REAL
6 OR PERSONAL PROPERTY OR INTERESTS IN SUCH PROPERTY.

7 (7) "FREE" MEANS THE PROVISION OF EDUCATIONAL AND RELATED
8 SERVICES WITHOUT COST TO A QUALIFIED STUDENT WITH A DISABILITY OR
9 THE STUDENT'S PARENT OR GUARDIAN. A FREE EDUCATION MAY CONSIST
10 OF EITHER THE PROVISION OF FREE SERVICES THROUGH A PROGRAM
11 OPERATED BY A LOCAL EDUCATION PROVIDER OR PAYMENT BY A LOCAL
12 EDUCATION PROVIDER TO A THIRD PARTY IF THE LOCAL EDUCATION
13 PROVIDER PLACES A STUDENT IN A PROGRAM OTHER THAN ONE OPERATED
14 BY THE LOCAL EDUCATION PROVIDER. FUNDS AVAILABLE FROM ANY
15 PUBLIC OR PRIVATE AGENCY MAY BE USED TO MEET THE REQUIREMENTS
16 OF THIS ARTICLE 29.5.

17 (8) "INDIVIDUALIZED EDUCATION PROGRAM" OR "IEP" HAS THE
18 MEANING SET FORTH IN SECTION 22-20-103 (15).

19 (9) "INDIVIDUALS WITH DISABILITIES EDUCATION ACT" OR
20 "IDEA" MEANS THE FEDERAL "INDIVIDUALS WITH DISABILITIES
21 EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ.

22 (10) "LOCAL EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT,
23 A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO
24 PART 1 OF ARTICLE 30.5 OF THIS TITLE 22, A CHARTER SCHOOL
25 AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
26 PART 5 OF ARTICLE 30.5 OF THIS TITLE 22, THE STATE CHARTER SCHOOL
27 INSTITUTE ESTABLISHED IN SECTION 22-30.5-503, A STATE-OPERATED

1 PROGRAM, OR A BOARD OF COOPERATIVE SERVICES CREATED AND
2 OPERATING PURSUANT TO ARTICLE 5 OF THIS TITLE 22 THAT OPERATES ONE
3 OR MORE PUBLIC SCHOOLS.

4 (11) "PARENT" HAS THE MEANING IN SECTION 22-20-103 (19.7).

5 (12) "QUALIFIED STUDENT WITH A DISABILITY" MEANS A STUDENT
6 WHO HAS A DISABILITY AND WHO IS ENTITLED TO A FREE PUBLIC
7 EDUCATION PURSUANT TO SECTION 22-33-103.

8 (13) "SECTION 504" MEANS SECTION 504 OF THE FEDERAL
9 "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 701 ET SEQ.

10 (14) "SECTION 504 PLAN" MEANS A PLAN MADE PURSUANT TO
11 SECTION 504 THAT PROVIDES ACCOMMODATIONS, SERVICES, AND OTHER
12 SUPPORT FOR A QUALIFIED STUDENT WITH A DISABILITY.

13 **22-29.5-103. Discrimination prohibited.**

14 (1) NO QUALIFIED STUDENT WITH A DISABILITY SHALL BE
15 EXCLUDED FROM PARTICIPATION IN, DENIED THE BENEFITS OF, OR
16 OTHERWISE SUBJECTED TO DISCRIMINATION BY A LOCAL EDUCATION
17 PROVIDER IN PROVISION OF ITS PROGRAMS, SERVICES, AND ACTIVITIES.

18 (2) A LOCAL EDUCATION PROVIDER, IN PROVIDING ANY AID,
19 BENEFIT, OR SERVICE, MAY NOT, DIRECTLY OR THROUGH CONTRACTUAL,
20 LICENSING, OR OTHER ARRANGEMENTS, BASED ON DISABILITY:

21 (a) DENY A QUALIFIED STUDENT WITH A DISABILITY THE
22 OPPORTUNITY TO PARTICIPATE IN OR BENEFIT FROM THE AID, BENEFIT, OR
23 SERVICE;

24 (b) AFFORD A QUALIFIED STUDENT WITH A DISABILITY AN
25 OPPORTUNITY TO PARTICIPATE IN OR BENEFIT FROM THE AID, BENEFIT, OR
26 SERVICE THAT IS NOT EQUAL TO THAT AFFORDED TO OTHERS;

27 (c) PROVIDE A QUALIFIED STUDENT WITH A DISABILITY WITH AN

1 AID, BENEFIT, OR SERVICE THAT IS NOT AS EFFECTIVE AS THAT PROVIDED
2 TO OTHERS;

3 (d) PROVIDE DIFFERENT OR SEPARATE AIDS, BENEFITS, OR
4 SERVICES TO A QUALIFIED STUDENT WITH A DISABILITY OR TO ANY CLASS
5 OF QUALIFIED STUDENTS WITH A DISABILITY UNLESS SUCH ACTION IS
6 NECESSARY TO PROVIDE A QUALIFIED STUDENT WITH A DISABILITY WITH
7 AIDS, BENEFITS, OR SERVICES THAT ARE AS EFFECTIVE AS THOSE PROVIDED
8 TO OTHERS;

9 (e) AID OR PERPETUATE DISCRIMINATION AGAINST A QUALIFIED
10 STUDENT WITH A DISABILITY BY PROVIDING SIGNIFICANT ASSISTANCE TO
11 AN AGENCY, ORGANIZATION, OR PERSON THAT DISCRIMINATES ON THE
12 BASIS OF DISABILITY IN PROVIDING ANY AID, BENEFIT, OR SERVICE TO
13 BENEFICIARIES OF THE LOCAL EDUCATION PROVIDER'S EDUCATIONAL
14 PROGRAM OR ACTIVITY; OR

15 (f) OTHERWISE LIMIT A QUALIFIED STUDENT WITH A DISABILITY IN
16 THE ENJOYMENT OF ANY RIGHT, PRIVILEGE, ADVANTAGE, OR OPPORTUNITY
17 ENJOYED BY OTHERS RECEIVING AN EDUCATIONAL AID, BENEFIT, OR
18 SERVICE.

19 (3) FOR PURPOSES OF THIS ARTICLE 29.5, AN AID, BENEFIT, OR
20 SERVICE, TO BE EQUALLY EFFECTIVE, IS NOT REQUIRED TO PRODUCE THE
21 IDENTICAL RESULT OR LEVEL OF ACHIEVEMENT FOR QUALIFIED STUDENTS
22 WITH A DISABILITY AND STUDENTS WITHOUT A DISABILITY, BUT MUST
23 AFFORD A QUALIFIED STUDENT WITH A DISABILITY EQUAL OPPORTUNITY
24 TO OBTAIN THE SAME RESULT, TO GAIN THE SAME BENEFIT, OR TO REACH
25 THE SAME LEVEL OF ACHIEVEMENT IN THE MOST INTEGRATED SETTING
26 APPROPRIATE TO THE STUDENT'S NEEDS.

27 (4) DESPITE THE EXISTENCE OF SEPARATE OR DIFFERENT AIDS,

1 BENEFITS, OR SERVICES PROVIDED IN ACCORDANCE WITH THIS TITLE 22, A
2 LOCAL EDUCATION PROVIDER MAY NOT DENY A QUALIFIED STUDENT WITH
3 A DISABILITY THE OPPORTUNITY TO PARTICIPATE IN SUCH AIDS, BENEFITS,
4 OR SERVICES THAT ARE NOT SEPARATE OR DIFFERENT.

5 (5) A LOCAL EDUCATION PROVIDER SHALL NOT, DIRECTLY OR
6 THROUGH CONTRACTUAL OR OTHER ARRANGEMENTS, USE CRITERIA OR
7 METHODS OF ADMINISTRATION THAT:

8 (a) HAVE THE EFFECT OF SUBJECTING A QUALIFIED STUDENT WITH
9 A DISABILITY TO DISCRIMINATION ON THE BASIS OF THEIR DISABILITY;

10 (b) HAVE THE PURPOSE OR EFFECT OF DEFEATING OR
11 SUBSTANTIALLY IMPAIRING THE ACCOMPLISHMENT OF THE OBJECTIVES OF
12 THE LOCAL EDUCATION PROVIDER'S PROGRAM OR ACTIVITY WITH RESPECT
13 TO A QUALIFIED STUDENT WITH A DISABILITY; OR

14 (c) PERPETUATE THE DISCRIMINATION OF ANOTHER LOCAL
15 EDUCATION PROVIDER IF BOTH LOCAL EDUCATION PROVIDERS ARE
16 SUBJECT TO COMMON ADMINISTRATIVE CONTROL OR ARE AGENCIES OF THE
17 STATE.

18 (6) IN DETERMINING THE SITE OR LOCATION OF A FACILITY, A
19 LOCAL EDUCATION PROVIDER SHALL NOT MAKE SELECTIONS THAT:

20 (a) HAVE THE EFFECT OF EXCLUDING A QUALIFIED STUDENT WITH
21 A DISABILITY FROM A FACILITY OR DENYING A QUALIFIED STUDENT WITH
22 A DISABILITY THE BENEFITS OF A FACILITY, OR OTHERWISE SUBJECTING A
23 QUALIFIED STUDENT WITH A DISABILITY TO DISCRIMINATION; OR

24 (b) HAVE THE PURPOSE OR EFFECT OF DEFEATING OR
25 SUBSTANTIALLY IMPAIRING THE ACCOMPLISHMENT OF THE OBJECTIVES OF
26 THE PROGRAM OR ACTIVITY WITH RESPECT TO A QUALIFIED STUDENT WITH
27 A DISABILITY.

1 (7) A LOCAL EDUCATION PROVIDER SHALL CONDUCT EVALUATIONS
2 AND REEVALUATIONS OF A STUDENT IN THE STUDENT'S PRIMARY
3 LANGUAGE. A LOCAL EDUCATION PROVIDER MUST ENSURE MEANINGFUL
4 COMMUNICATION WITH A PARENT WITH LIMITED ENGLISH PROFICIENCY IN
5 A LANGUAGE THAT THE PARENT CAN UNDERSTAND AND ADEQUATELY
6 NOTIFY A PARENT WITH LIMITED ENGLISH PROFICIENCY OF INFORMATION
7 ABOUT ANY PROGRAM, SERVICE, OR ACTIVITY OF A LOCAL EDUCATION
8 PROVIDER THAT IS CALLED TO THE ATTENTION OF A PARENT WHO IS
9 PROFICIENT IN ENGLISH.

10 **22-29.5-104. Grievance process - coordinator - training.**

11 (1) A LOCAL EDUCATION PROVIDER SHALL:

12 (a) ADOPT A DISABILITY RIGHTS GRIEVANCE PROCESS, WHICH MAY
13 BE SATISFIED BY ADOPTING A SECTION 504 GRIEVANCE PROCEDURE THAT
14 FULFILLS THE REQUIREMENTS OF 34 CFR 104.7 (b) AND THAT ALLOWS
15 GRIEVANCES TO BE FILED BY STUDENTS, PARENTS, EMPLOYEES OF LOCAL
16 EDUCATION PROVIDERS, OR THIRD PARTIES;

17 (b) DESIGNATE AT LEAST ONE RESPONSIBLE EMPLOYEE TO
18 OVERSEE COMPLIANCE WITH THIS ARTICLE 29.5 AND SERVE AS A POINT OF
19 CONTACT FOR STUDENTS, PARENTS, THE DEPARTMENT, AND THIRD PARTIES
20 SUBJECT TO THE FOLLOWING:

21 (I) THE RESPONSIBLE EMPLOYEE MUST RECEIVE TRAINING ABOUT
22 HOW TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE 29.5,
23 INCLUDING CREATING INCLUSIVE AND RESPECTFUL ENVIRONMENTS FOR
24 STUDENTS WITH DISABILITIES, DISABILITY RIGHTS, AND THE DISABILITY
25 RIGHTS GRIEVANCE PROCESS WITHIN SIXTY DAYS OF BEING DESIGNATED;

26 (II) IN ADDITION TO OVERSEEING COMPLIANCE WITH THIS ARTICLE
27 29.5 AND SERVING AS A POINT OF CONTACT FOR STUDENTS, PARENTS, AND

1 THIRD PARTIES WHO HAVE QUESTIONS OR CONCERNS ABOUT THE
2 REQUIREMENTS OF THIS ARTICLE 29.5, THE RESPONSIBLE EMPLOYEE MAY
3 ALSO SERVE AS THE RESPONSIBLE EMPLOYEE REQUIRED BY 34 CFR 104.7
4 (a); AND

5 (III) A LOCAL EDUCATION PROVIDER SHALL PROVIDE THE
6 RESPONSIBLE EMPLOYEE WITH THE NECESSARY TIME, RESOURCES, AND
7 AUTHORITY TO FULFILL THE OBLIGATIONS SET FORTH IN THIS ARTICLE
8 29.5;

9 (c) PROVIDE INITIAL AND CONTINUING NOTIFICATION TO STUDENTS
10 AND PARENTS THAT THE LOCAL EDUCATION PROVIDER MUST NOT
11 DISCRIMINATE ON THE BASIS OF DISABILITY. THE NOTIFICATION SHALL
12 INCLUDE THE NAME, TITLE, PHONE NUMBER, AND EMAIL ADDRESS OF THE
13 RESPONSIBLE EMPLOYEE DESIGNATED PURSUANT TO SUBSECTION (1)(b) OF
14 THIS SECTION. A LOCAL EDUCATION PROVIDER SHALL PROVIDE THE INITIAL
15 NOTIFICATION REQUIRED BY THIS SUBSECTION (1)(c) ON OR BEFORE APRIL
16 1, 2027. METHODS OF INITIAL AND CONTINUING NOTIFICATION INCLUDE
17 THE PUBLIC POSTING OF HARD-COPY NOTICES IN SCHOOLS AND IN THE
18 CENTRAL OFFICE BUILDING OF A SCHOOL; INCLUSION IN STUDENT AND
19 EMPLOYEE HANDBOOKS; INCLUSION IN NEWSLETTERS, MASS EMAILS, AND
20 INFORMATION SENT HOME TO PARENTS; PLACEMENT OF NOTICES IN THE
21 LOCAL EDUCATION PROVIDER'S PUBLICATIONS AND ONLINE MATERIALS,
22 INCLUDING THE LOCAL EDUCATION PROVIDER'S WEBSITE AND SOCIAL
23 MEDIA; OR DISTRIBUTION OF MEMORANDA OR OTHER WRITTEN
24 COMMUNICATIONS. THIS NOTICE REQUIREMENT MAY BE MET IN
25 CONJUNCTION WITH ANY NOTICE REQUIRED BY 34 CFR 104.8, OR 28 CFR
26 35.106.

27 (d) TRAIN RELEVANT STAFF ANNUALLY ABOUT THE REQUIREMENTS

1 OF THIS ARTICLE 29.5. FOR PURPOSES OF THIS SECTION, "RELEVANT STAFF"
2 INCLUDES THE EMPLOYEE DESIGNATED PURSUANT TO THIS SECTION, AT
3 LEAST ONE ADMINISTRATOR FROM EACH EDUCATIONAL BUILDING ON THE
4 LOCAL EDUCATION PROVIDER'S PREMISES, AND OTHER STAFF REGULARLY
5 INVOLVED WITH DEVELOPING, IMPLEMENTING, AND COORDINATING PLANS
6 IN ACCORDANCE WITH THIS ARTICLE 29.5.

7 **22-29.5-105. Reasonable accommodations.**

8 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A
9 LOCAL EDUCATION PROVIDER SHALL MAKE A REASONABLE
10 ACCOMMODATION TO A POLICY, PRACTICE, OR PROCEDURE WHEN THE
11 ACCOMMODATION IS NECESSARY TO AVOID DISCRIMINATING AGAINST A
12 QUALIFIED STUDENT WITH A DISABILITY ON THE BASIS OF DISABILITY,
13 UNLESS THE LOCAL EDUCATION PROVIDER CAN DEMONSTRATE THAT
14 MAKING THE REASONABLE ACCOMMODATION WOULD FUNDAMENTALLY
15 ALTER THE NATURE OF THE SERVICE, PROGRAM, OR ACTIVITY COVERED BY
16 THE POLICY, PRACTICE, OR PROCEDURE, OR CAUSE AN UNDUE FINANCIAL
17 OR ADMINISTRATIVE BURDEN ON THE LOCAL EDUCATION PROVIDER.

18 (2) A LOCAL EDUCATION PROVIDER IS NOT REQUIRED TO MAKE A
19 REASONABLE ACCOMMODATION TO A POLICY, PRACTICE, OR PROCEDURE
20 TO AVOID DISCRIMINATING AGAINST AN INDIVIDUAL WHO IS ONLY
21 REGARDED AS HAVING A DISABILITY PURSUANT TO THE ADA.

22 **22-29.5-106. Effective communication.**

23 (1) A LOCAL EDUCATION PROVIDER SHALL ENSURE THAT
24 COMMUNICATION WITH A QUALIFIED STUDENT WITH A DISABILITY IS AS
25 EFFECTIVE AS COMMUNICATION WITH A STUDENT WITHOUT A DISABILITY.

26 (2) A LOCAL EDUCATION PROVIDER SHALL FURNISH APPROPRIATE
27 AUXILIARY AIDS AND SERVICES WHERE NECESSARY TO AFFORD A

1 QUALIFIED STUDENT WITH A DISABILITY AN EQUAL OPPORTUNITY TO
2 PARTICIPATE IN AND ENJOY THE BENEFITS OF A SERVICE, PROGRAM, OR
3 ACTIVITY OF THE LOCAL EDUCATION PROVIDER.

4 (3) THE TYPE OF AUXILIARY AID OR SERVICE NECESSARY TO
5 ENSURE EFFECTIVE COMMUNICATION WITH A QUALIFIED STUDENT WITH A
6 DISABILITY MAY VARY IN ACCORDANCE WITH THE:

7 (a) METHOD OF COMMUNICATION USED BY THE QUALIFIED
8 STUDENT WITH A DISABILITY;

9 (b) NATURE, LENGTH, AND COMPLEXITY OF THE INVOLVED
10 COMMUNICATION; AND

11 (c) CONTEXT IN WHICH THE COMMUNICATION IS TAKING PLACE.

12 (4) IN DETERMINING WHAT TYPES OF AUXILIARY AIDS AND
13 SERVICES ARE NECESSARY TO ENSURE EFFECTIVE COMMUNICATION WITH
14 A QUALIFIED STUDENT WITH A DISABILITY, A LOCAL EDUCATION PROVIDER
15 SHALL GIVE PRIMARY CONSIDERATION TO THE REQUEST OF OR ON BEHALF
16 OF A QUALIFIED STUDENT WITH A DISABILITY. TO BE EFFECTIVE, AN
17 AUXILIARY AID OR SERVICE MUST BE PROVIDED IN A FORMAT THAT IS
18 ACCESSIBLE TO A QUALIFIED STUDENT WITH A DISABILITY, IN A TIMELY
19 MANNER, AND IN SUCH A WAY AS TO PROTECT THE PRIVACY AND
20 INDEPENDENCE OF THE QUALIFIED STUDENT WITH A DISABILITY.

21 (5) (a) A LOCAL EDUCATION PROVIDER SHALL NOT REQUIRE A
22 QUALIFIED STUDENT WITH A DISABILITY TO PROVIDE AN INTERPRETER.

23 (b) A LOCAL EDUCATION PROVIDER SHALL NOT RELY ON AN ADULT
24 ACCOMPANYING A QUALIFIED STUDENT WITH A DISABILITY TO INTERPRET
25 OR FACILITATE COMMUNICATION, EXCEPT:

26 (I) IN AN EMERGENCY INVOLVING AN IMMINENT THREAT TO THE
27 SAFETY OR WELFARE OF AN INDIVIDUAL OR THE PUBLIC AND NO

1 INTERPRETER IS AVAILABLE; OR

2 (II) WHEN THE QUALIFIED STUDENT WITH A DISABILITY
3 SPECIFICALLY REQUESTS THAT THE ACCOMPANYING ADULT INTERPRET OR
4 FACILITATE COMMUNICATION, THE ACCOMPANYING ADULT AGREES TO
5 PROVIDE SUCH ASSISTANCE, AND RELIANCE ON THAT ADULT FOR SUCH
6 ASSISTANCE IS APPROPRIATE UNDER THE CIRCUMSTANCES.

7 (c) A LOCAL EDUCATION PROVIDER SHALL NOT RELY ON A MINOR
8 TO INTERPRET OR FACILITATE COMMUNICATION, EXCEPT IN AN
9 EMERGENCY INVOLVING AN IMMINENT THREAT TO THE SAFETY OR
10 WELFARE OF AN INDIVIDUAL OR THE PUBLIC AND NO INTERPRETER IS
11 AVAILABLE.

12 **22-29.5-107. Physical accessibility - definition.**

13 NO QUALIFIED STUDENT WITH A DISABILITY MAY BE DENIED THE
14 BENEFITS OF, BE EXCLUDED FROM PARTICIPATION IN, OR OTHERWISE BE
15 SUBJECTED TO DISCRIMINATION UNDER A LOCAL EDUCATION PROVIDER'S
16 PROGRAMS OR ACTIVITIES BECAUSE THE LOCAL EDUCATION PROVIDER'S
17 FACILITIES ARE INACCESSIBLE TO OR CANNOT BE ACCESSED SAFELY BY
18 PERSONS WITH DISABILITIES. IN IMPLEMENTING THIS SECTION, LOCAL
19 EDUCATION PROVIDERS MAY REFER TO THE SECTION 504 REGULATIONS AT
20 SUBPART C, THE ADA REGULATIONS AT SUBPART D, AND ACCESSIBILITY
21 STANDARDS SUCH AS THE UNIFORM FEDERAL ACCESSIBILITY STANDARDS,
22 THE 1991 ADA STANDARDS FOR ACCESSIBLE DESIGN, AND THE 2010 ADA
23 STANDARDS FOR ACCESSIBLE DESIGN.

24 **22-29.5-108. Free and appropriate public education.**

25 (1) A LOCAL EDUCATION PROVIDER SHALL PROVIDE A FREE AND
26 APPROPRIATE PUBLIC EDUCATION TO EACH QUALIFIED STUDENT WITH A
27 DISABILITY WHO IS IN THE LOCAL EDUCATION PROVIDER'S JURISDICTION,

1 REGARDLESS OF THE NATURE OR SEVERITY OF THE STUDENT'S DISABILITY.

2 (2) A LOCAL EDUCATION PROVIDER SHALL ENSURE THAT A
3 QUALIFIED STUDENT WITH A DISABILITY WITHIN THAT LOCAL EDUCATION
4 PROVIDER'S JURISDICTION RECEIVES AN APPROPRIATE EDUCATION EVEN IF
5 THE STUDENT IS PLACED OR REFERRED TO A PROGRAM, AID, BENEFIT, OR
6 SERVICE OTHER THAN ONE OPERATED BY THE LOCAL EDUCATION
7 PROVIDER.

8 (3) A FREE EDUCATION MAY CONSIST OF EITHER THE PROVISION OF
9 FREE SERVICES OR PAYMENT TO A THIRD PARTY IF THE LOCAL EDUCATION
10 PROVIDER PLACES A QUALIFIED STUDENT WITH A DISABILITY IN A
11 PROGRAM OTHER THAN ONE OPERATED BY THE LOCAL EDUCATION
12 PROVIDER.

13 (4) IF A LOCAL EDUCATION PROVIDER PLACES A QUALIFIED
14 STUDENT WITH A DISABILITY OR REFERS SUCH STUDENT FOR AID, BENEFITS,
15 OR SERVICES AT A FACILITY NOT OPERATED OR PROVIDED BY THE LOCAL
16 EDUCATION PROVIDER AS A MEANS OF PROVIDING A FREE AND
17 APPROPRIATE PUBLIC EDUCATION, THE REFERRING LOCAL EDUCATION
18 PROVIDER SHALL ENSURE THAT THE QUALIFIED STUDENT WITH A
19 DISABILITY HAS ADEQUATE TRANSPORTATION TO AND FROM THE FACILITY
20 WHERE THE AID, BENEFITS, OR SERVICES ARE PROVIDED. THE
21 TRANSPORTATION MUST BE PROVIDED AT NO GREATER COST THAN WOULD
22 BE INCURRED BY THE QUALIFIED STUDENT WITH A DISABILITY OR THEIR
23 PARENT IF THE STUDENT RECEIVED THE AIDS, BENEFITS, OR SERVICES FROM
24 THE REFERRING LOCAL EDUCATION PROVIDER.

25 (5) IF IT IS NECESSARY FOR A QUALIFIED STUDENT WITH A
26 DISABILITY TO BE PLACED IN A PUBLIC OR PRIVATE RESIDENTIAL FACILITY
27 TO PROVIDE THE STUDENT WITH A FREE AND APPROPRIATE PUBLIC

1 EDUCATION, AS DETERMINED BY A SECTION 504 TEAM OR IEP TEAM, THE
2 PLACEMENT, INCLUDING NONMEDICAL CARE AND ROOM AND BOARD,
3 SHALL BE PROVIDED AT NO COST TO THE STUDENT OR THEIR PARENTS OR
4 GUARDIANS.

5 (6) IF A LOCAL EDUCATION PROVIDER HAS MADE AVAILABLE A
6 FREE AND APPROPRIATE PUBLIC EDUCATION TO A QUALIFIED STUDENT
7 WITH A DISABILITY PURSUANT TO THIS SECTION AND THE STUDENT'S
8 PARENTS OR GUARDIANS CHOOSE TO PLACE THE STUDENT IN A PRIVATE
9 SCHOOL, THE LOCAL EDUCATION PROVIDER IS NOT REQUIRED TO PAY FOR
10 THE STUDENT'S EDUCATION IN THE PRIVATE SCHOOL.

11 **22-29.5-109. Least restrictive environment - academic settings**
12 **- nonacademic settings - comparable facilities.**

13 (1) A LOCAL EDUCATION PROVIDER SHALL PROVIDE A FREE AND
14 APPROPRIATE PUBLIC EDUCATION TO EACH QUALIFIED STUDENT WITH A
15 DISABILITY WITHIN ITS JURISDICTION WITH STUDENTS WITHOUT
16 DISABILITIES TO THE MAXIMUM EXTENT APPROPRIATE BASED ON THE
17 NEEDS OF THE QUALIFIED STUDENT WITH A DISABILITY. A LOCAL
18 EDUCATION PROVIDER SHALL PLACE A QUALIFIED STUDENT WITH A
19 DISABILITY IN THE REGULAR EDUCATIONAL ENVIRONMENT OPERATED BY
20 THE LOCAL EDUCATION PROVIDER UNLESS IT IS DEMONSTRATED THAT THE
21 EDUCATION OF THE STUDENT IN THAT ENVIRONMENT CANNOT BE
22 ACHIEVED SATISFACTORILY, EVEN WITH THE USE OF SUPPLEMENTARY AIDS
23 AND SERVICES. WHENEVER A LOCAL EDUCATION PROVIDER PLACES A
24 STUDENT IN A SETTING OTHER THAN THE REGULAR EDUCATIONAL
25 ENVIRONMENT PURSUANT TO THIS SUBSECTION (1), IT SHALL CONSIDER
26 THE PROXIMITY OF THE ALTERNATE SETTING TO THE STUDENT'S HOME.

27 (2) IN PROVIDING OR ARRANGING FOR THE PROVISION OF

1 NONACADEMIC SERVICES AND ACTIVITIES, INCLUDING MEALS, SPECIALS,
2 RECESS PERIODS, AND EXTRACURRICULAR ACTIVITIES, A LOCAL
3 EDUCATION PROVIDER SHALL ENSURE THAT A QUALIFIED STUDENT WITH
4 A DISABILITY PARTICIPATES IN SUCH ACTIVITIES AND SERVICES WITH
5 STUDENTS WITHOUT DISABILITIES TO THE MAXIMUM EXTENT APPROPRIATE
6 BASED ON THE NEEDS OF THE QUALIFIED STUDENT WITH A DISABILITY.

7 (3) IF A LOCAL EDUCATION PROVIDER, IN COMPLIANCE WITH
8 SUBSECTION (1) OF THIS SECTION, OPERATES A FACILITY THAT IS
9 IDENTIFIABLE AS BEING FOR STUDENTS WITH DISABILITIES, THE LOCAL
10 EDUCATION PROVIDER SHALL ENSURE THE FACILITY AND THE SERVICES
11 AND ACTIVITIES PROVIDED THEREIN ARE COMPARABLE TO THE FACILITIES,
12 SERVICES, AND ACTIVITIES OF THE LOCAL EDUCATION PROVIDER.

13 **22-29.5-110. Nonacademic and extracurricular services and**
14 **activities - counseling services - physical education - athletics.**

15 (1) A LOCAL EDUCATION PROVIDER SHALL PROVIDE NONACADEMIC
16 AND EXTRACURRICULAR SERVICES AND ACTIVITIES IN SUCH A MANNER AS
17 IS NECESSARY TO AFFORD A QUALIFIED STUDENT WITH A DISABILITY AN
18 EQUAL OPPORTUNITY TO PARTICIPATE IN THE SERVICES AND ACTIVITIES.
19 NONACADEMIC AND EXTRACURRICULAR SERVICES AND ACTIVITIES
20 INCLUDE COUNSELING SERVICES, TRANSPORTATION, HEALTH SERVICES,
21 ATHLETICS, COURSES, SPECIAL INTEREST GROUPS OR CLUBS, REFERRALS,
22 AND EMPLOYMENT OF STUDENTS.

23 (2) A LOCAL EDUCATION PROVIDER SHALL ENSURE THAT A
24 QUALIFIED STUDENT WITH A DISABILITY IS NOT COUNSELED TOWARD MORE
25 RESTRICTIVE CAREER OBJECTIVES THAN ARE STUDENTS WITHOUT
26 DISABILITIES WITH SIMILAR INTERESTS AND ABILITIES.

27 (3) A LOCAL EDUCATION PROVIDER THAT PROVIDES SEPARATE OR

1 DIFFERENT PHYSICAL EDUCATION AND ATHLETIC ACTIVITIES TO STUDENTS
2 WITH DISABILITIES MAY DO SO ONLY IF CONSISTENT WITH THE LEAST
3 RESTRICTIVE ENVIRONMENT REQUIREMENTS IN SECTION 22-29.5-109 AND
4 ONLY IF A QUALIFIED STUDENT WITH A DISABILITY IS NOT DENIED THE
5 OPPORTUNITY TO COMPETE FOR ATHLETIC TEAMS OR TO PARTICIPATE IN
6 ATHLETICS COURSES THAT ARE NOT SEPARATE OR DIFFERENT FROM THOSE
7 TEAMS OR COURSES OFFERED TO STUDENTS WITHOUT DISABILITIES.
8 COMPETITIVE OR SELECTIVE PROGRAMS MAY REQUIRE A SELECTION
9 PROCESS IF THE PROGRAM CRITERIA IS NOT DISCRIMINATORY.

10 **22-29.5-111. Evaluation - consent - procedure - reevaluation.**

11 (1) AT LEAST ANNUALLY, A LOCAL EDUCATION PROVIDER MUST
12 TAKE APPROPRIATE STEPS TO IDENTIFY AND LOCATE EVERY QUALIFIED
13 STUDENT WITH A DISABILITY WHO RESIDES IN THE LOCAL EDUCATION
14 PROVIDER'S JURISDICTION AND WHO IS NOT RECEIVING A PUBLIC
15 EDUCATION AND TAKE APPROPRIATE STEPS TO NOTIFY THEIR PARENT OF
16 THE LOCAL EDUCATION PROVIDER'S DUTY TO IDENTIFY AND LOCATE THE
17 STUDENT IN ACCORDANCE WITH THIS SECTION.

18 (2) PRIOR TO EVALUATING A STUDENT UNDER THIS SECTION, A
19 LOCAL EDUCATION PROVIDER SHALL NOTIFY THE STUDENT'S PARENT OF
20 THE PROPOSED EVALUATION AND OBTAIN CONSENT FROM THE PARENT TO
21 EVALUATE THE STUDENT.

22 (3) IF A STUDENT'S PARENT CONSENTS TO AN EVALUATION
23 PURSUANT TO SUBSECTION (2) OF THIS SECTION, A LOCAL EDUCATION
24 PROVIDER SHALL CONDUCT AN EVALUATION OF ANY STUDENT WHO IS, OR
25 WHO IS BELIEVED TO BE, A QUALIFIED STUDENT WITH A DISABILITY TO
26 DETERMINE IF THE STUDENT IS A QUALIFIED STUDENT WITH A DISABILITY.

27 (4) A LOCAL EDUCATION PROVIDER SHALL ESTABLISH AND COMPLY

1 WITH STANDARDS AND PROCEDURES FOR EVALUATIONS THAT ARE
2 CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION AND SHALL
3 ENSURE THAT:

4 (a) TESTS AND OTHER EVALUATION MATERIALS HAVE BEEN
5 VALIDATED FOR THE SPECIFIC PURPOSE FOR WHICH THEY ARE USED AND
6 ARE ADMINISTERED BY TRAINED PERSONNEL IN CONFORMANCE WITH THE
7 INSTRUCTIONS PROVIDED BY THEIR PRODUCER;

8 (b) TESTS AND OTHER EVALUATION MATERIALS INCLUDE THOSE
9 CRITERIA TAILORED TO ASSESS SPECIFIC AREAS OF EDUCATIONAL NEED
10 AND NOT MERELY THOSE WHICH ARE DESIGNED TO PROVIDE A SINGLE
11 GENERAL INTELLIGENCE QUOTIENT; AND

12 (c) TESTS ARE SELECTED AND ADMINISTERED TO BEST ENSURE
13 THAT, WHEN A TEST IS ADMINISTERED TO A STUDENT WITH IMPAIRED
14 SENSORY, MANUAL, OR SPEAKING SKILLS, THE TEST RESULTS ACCURATELY
15 REFLECT THE STUDENT'S APTITUDE OR ACHIEVEMENT LEVEL OR OTHER
16 FACTOR THAT THE TEST PURPORTS TO MEASURE, RATHER THAN
17 REFLECTING THE STUDENT'S IMPAIRED SENSORY, MANUAL, OR SPEAKING
18 SKILLS, EXCEPT WHERE THOSE SKILLS ARE THE FACTORS THAT THE TEST
19 PURPORTS TO MEASURE.

20 (5) IN INTERPRETING EVALUATION DATA AND IN MAKING
21 PLACEMENT DECISIONS, A LOCAL EDUCATION PROVIDER SHALL:

22 (a) DRAW UPON INFORMATION FROM A VARIETY OF SOURCES,
23 INCLUDING APTITUDE AND ACHIEVEMENT TESTS, TEACHER
24 RECOMMENDATIONS, PHYSICAL CONDITION, SOCIAL OR CULTURAL
25 BACKGROUND, AND ADAPTIVE BEHAVIOR;

26 (b) ENSURE THAT INFORMATION OBTAINED FROM ALL SUCH
27 SOURCES IS DOCUMENTED AND CAREFULLY CONSIDERED;

1 (c) ENSURE THAT THE ELIGIBILITY DETERMINATION AND
2 PLACEMENT DECISION IS MADE BY A GROUP OF PERSONS THAT ARE
3 KNOWLEDGEABLE ABOUT THE CHILD, THE MEANING OF THE EVALUATION
4 DATA, AND THE PLACEMENT OPTIONS; AND

5 (d) ENSURE THAT THE PLACEMENT DECISION IS MADE IN
6 CONFORMITY WITH THE LEAST RESTRICTIVE ENVIRONMENT PROVISIONS IN
7 SECTION 22-29.5-109.

8 (6) FOR STUDENTS IDENTIFIED AS ELIGIBLE PURSUANT TO THIS
9 ARTICLE 29.5, LOCAL EDUCATION PROVIDERS SHALL CONDUCT
10 REEVALUATIONS AT LEAST EVERY THREE YEARS. CONSENT FROM A
11 PARENT IS NOT REQUIRED FOR A REEVALUATION.

12 (7) A LOCAL EDUCATION PROVIDER SATISFIES THE EVALUATION
13 REQUIREMENTS IF:

14 (a) THE LOCAL EDUCATION PROVIDER COMPLIES WITH THE
15 PROCEDURAL REQUIREMENTS SPECIFIED IN SECTION 22-29.5-112; AND

16 (b) THE LOCAL EDUCATION PROVIDER AND PARENT AGREE ON THE
17 STUDENT'S ELIGIBILITY AND PLACEMENT, INCLUDING THE SERVICES AND
18 ACCOMMODATIONS THE STUDENT NEEDS.

19 **22-29.5-112. Procedural safeguards.**

20 A LOCAL EDUCATION PROVIDER SHALL ESTABLISH AND IMPLEMENT,
21 WITH RESPECT TO ACTIONS REGARDING THE IDENTIFICATION, EVALUATION,
22 OR EDUCATIONAL PLACEMENT OF A STUDENT WHO MAY HAVE A
23 DISABILITY, A SYSTEM OF PROCEDURAL SAFEGUARDS THAT INCLUDES
24 NOTICE OF THE PROPOSED IDENTIFICATION, EVALUATION DETERMINATION,
25 OR EDUCATIONAL PLACEMENT DECISION, AN OPPORTUNITY FOR A PARENT
26 OF THE STUDENT TO EXAMINE RELEVANT RECORDS, AN IMPARTIAL
27 HEARING WITH OPPORTUNITY FOR PARTICIPATION BY THE STUDENT'S

1 PARENT AND REPRESENTATION BY LEGAL COUNSEL, AND AN OPPORTUNITY
2 TO APPEAL AN IMPARTIAL HEARING OUTCOME. COMPLIANCE WITH THE
3 PROCEDURAL SAFEGUARDS OF THE IDEA IS ONE MEANS OF MEETING THIS
4 REQUIREMENT.

5 **22-29.5-113. Harassment.**

6 (1) A LOCAL EDUCATION PROVIDER SHALL ENSURE THAT A
7 QUALIFIED STUDENT WITH A DISABILITY IS FREE FROM HARASSMENT THAT
8 CREATES A HOSTILE ENVIRONMENT. A "HOSTILE ENVIRONMENT" INCLUDES
9 AN ENVIRONMENT THAT INTERFERES WITH OR LIMITS THE STUDENT'S
10 ABILITY TO PARTICIPATE IN OR BENEFIT FROM THE LOCAL EDUCATION
11 PROVIDER'S SERVICES, ACTIVITIES, OR OPPORTUNITIES.

12 (2) WHEN A LOCAL EDUCATION PROVIDER KNOWS OR REASONABLY
13 SHOULD KNOW OF POSSIBLE DISABILITY-BASED HARASSMENT, IT MUST
14 TAKE IMMEDIATE AND APPROPRIATE ACTION TO INVESTIGATE OR
15 OTHERWISE DETERMINE WHAT OCCURRED.

16 (3) IF THE INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS
17 SECTION REVEALS THAT DISABILITY-BASED HARASSMENT IS SUFFICIENTLY
18 SERIOUS TO CREATE A HOSTILE ENVIRONMENT, THE LOCAL EDUCATION
19 PROVIDER MUST TAKE PROMPT AND EFFECTIVE STEPS REASONABLY
20 CALCULATED TO END THE DISABILITY-BASED HARASSMENT, ELIMINATE
21 THE HOSTILE ENVIRONMENT, PREVENT HARASSMENT AND A HOSTILE
22 ENVIRONMENT FROM RECURRING, AND, AS APPROPRIATE, REMEDY THE
23 HOSTILE ENVIRONMENT'S EFFECTS.

24 (4) HARASSMENT ON ANY BASIS MAY ALSO IMPACT A QUALIFIED
25 STUDENT WITH A DISABILITY'S RECEIPT OF A FREE AND APPROPRIATE
26 PUBLIC EDUCATION, IN WHICH CASE THE EFFECTS OF HARASSMENT, EVEN
27 IF NOT BASED ON DISABILITY, MUST BE ADDRESSED BY THE STUDENT'S

1 SECTION 504 TEAM OR IEP TEAM.

2 **22-29.5-114. Training - technical assistance - enforcement -**
3 **allegation - complaint - dismissal - corrective action - exhaustion of**
4 **administrative remedies.**

5 (1) THE DEPARTMENT SHALL PROVIDE TRAINING AND TECHNICAL
6 ASSISTANCE TO LOCAL EDUCATION PROVIDERS ABOUT THE REQUIREMENTS
7 OF THIS ARTICLE 29.5.

8 (2) THE DEPARTMENT HAS THE AUTHORITY TO INVESTIGATE AND
9 RESOLVE COMPLAINTS OF ALLEGED VIOLATIONS OF THIS ARTICLE 29.5 AND
10 THE AUTHORITY TO MONITOR THE IMPLEMENTATION OF THE
11 REQUIREMENTS OF THIS ARTICLE 29.5.

12 (3) A COMPLAINANT MUST ALLEGE VIOLATIONS THAT OCCURRED
13 WITHIN ONE CALENDAR YEAR BEFORE THE DATE THE COMPLAINT IS FILED
14 WITH THE DEPARTMENT, OR WITHIN SIXTY DAYS FOLLOWING RESOLUTION
15 OR TERMINATION OF THE PROCESS DESCRIBED IN SUBSECTION (6) OF THIS
16 SECTION.

17 (4) THE COLORADO CIVIL RIGHTS DIVISION SHALL NOT HAVE
18 JURISDICTION OVER ALLEGATIONS OR COMPLAINTS THAT FALL WITHIN THE
19 SCOPE OF THIS ARTICLE 29.5. THE COLORADO CIVIL RIGHTS DIVISION
20 SHALL ESTABLISH A SYSTEM TO ENSURE SUCH ALLEGATIONS OR
21 COMPLAINTS ARE REFERRED TO THE DEPARTMENT WITHIN TEN DAYS OF
22 RECEIVING AN ALLEGATION OR COMPLAINT.

23 (5) THE DEPARTMENT SHALL DISMISS AN ALLEGATION IN A
24 COMPLAINT, OR THE ENTIRE COMPLAINT, IF:

25 (a) (I) THE ALLEGATION, ON ITS FACE OR AS CLARIFIED, FAILS TO
26 STATE A VIOLATION OF THIS ARTICLE 29.5, WHEN THE ALLEGATION, ON ITS
27 FACE OR AS CLARIFIED, LACKS SUFFICIENT FACTUAL DETAIL, OR WHEN THE

1 ALLEGATION IS SO SPECULATIVE, CONCLUSORY, OR INCOHERENT, THAT
2 THE DEPARTMENT CANNOT REASONABLY INFER THAT A VIOLATION OF THIS
3 ARTICLE 29.5 OCCURRED OR MAY BE OCCURRING; OR

4 (II) PRIOR TO DISMISSING AN ALLEGATION OR COMPLAINT FOR ONE
5 OF THE REASONS SPECIFIED IN SUBSECTION (5)(a)(I) OF THIS SECTION, THE
6 DEPARTMENT MAY REQUEST FROM THE COMPLAINANT INFORMATION TO
7 FURTHER ASSESS WHETHER THE ALLEGATION OR COMPLAINT SHOULD BE
8 DISMISSED FOR A REASON SPECIFIED IN SUBSECTION (5)(a)(I) OF THIS
9 SECTION. THE COMPLAINANT HAS FOURTEEN DAYS FROM THE DATE OF THE
10 DEPARTMENT'S REQUEST TO PROVIDE THE REQUESTED INFORMATION. THE
11 DEPARTMENT MAY DISMISS AN ALLEGATION OR THE COMPLAINT IF THE
12 INFORMATION IS NOT RECEIVED WITHIN FOURTEEN DAYS OF THE
13 DEPARTMENT'S REQUEST, IF THE INFORMATION DOES NOT ESTABLISH
14 JURISDICTION, OR IF THE INFORMATION DOES NOT SUFFICIENTLY ADDRESS
15 THE FACTORS IN SUBSECTION (5)(a)(I) OF THIS SECTION, IN THE
16 DEPARTMENT'S DISCRETION.

17 (b) BASED ON ALL OF THE FACTS PROVIDED BY THE COMPLAINANT,
18 THE DEPARTMENT CANNOT REASONABLY CONCLUDE THE LOCAL
19 EDUCATION PROVIDER HAS VIOLATED THIS ARTICLE 29.5;

20 (c) THE ALLEGATION OR COMPLAINT IS NOT TIMELY FILED WITH
21 THE DEPARTMENT;

22 (d) THE COMPLAINT IS FILED AGAINST A PERSON OR ENTITY THAT
23 IS NOT A LOCAL EDUCATION PROVIDER;

24 (e) THE DEATH OF THE COMPLAINANT MAKES IT IMPOSSIBLE TO
25 FULLY INVESTIGATE THE ALLEGATION;

26 (f) THE DEATH OF THE COMPLAINANT FORECLOSES THE POSSIBILITY
27 OF INDIVIDUAL RELIEF;

1 (g) THE SAME OR SIMILAR ALLEGATION OR COMPLAINT HAS BEEN
2 FILED WITH OR IS BEING INVESTIGATED BY ANOTHER AGENCY, INCLUDING
3 THE DEPARTMENT'S DISPUTE RESOLUTION OFFICE OR THROUGH THE LOCAL
4 EDUCATION PROVIDER'S INTERNAL GRIEVANCE PROCESS. A COMPLAINANT
5 MAY FILE OR REFILE AN ALLEGATION OR COMPLAINT WITH THE
6 DEPARTMENT WITHIN SIXTY DAYS AFTER THE TERMINATION OF THE
7 DEPARTMENT'S DISPUTE RESOLUTION OFFICE'S PROCESS OR THE LOCAL
8 EDUCATION PROVIDER'S INTERNAL GRIEVANCE PROCESS. THE
9 DEPARTMENT SHALL REVIEW WHETHER THE OTHER AGENCY'S PROCESS
10 MET ACCEPTABLE LEGAL STANDARDS OR MAY CHOOSE TO INVESTIGATE ON
11 ITS OWN.

12 (h) THE SAME OR SIMILAR ALLEGATION OR COMPLAINT, BASED ON
13 THE SAME FACTS, HAS ALREADY BEEN RESOLVED BY THE DEPARTMENT,
14 ANOTHER AGENCY, OR THROUGH THE DISTRICT'S INTERNAL GRIEVANCE
15 PROCESS, USING ACCEPTABLE LEGAL STANDARDS;

16 (i) THE SAME OR SIMILAR ALLEGATION OR COMPLAINT, BASED ON
17 THE SAME FACTS, HAS ALREADY BEEN FILED IN STATE OR FEDERAL COURT.
18 IF THE COURT CASE ENDS WITHOUT A DECISION ON THE MERITS OR A
19 SETTLEMENT, THE COMPLAINT MAY BE FILED OR REFILED WITH THE
20 DEPARTMENT WITHIN SIXTY DAYS OF THE END OF THE COURT CASE. FOR
21 PURPOSES OF THIS SECTION, A DISMISSAL WITH PREJUDICE IS CONSIDERED
22 A DECISION ON THE MERITS AND A DISMISSAL WITHOUT PREJUDICE IS NOT
23 A DECISION ON THE MERITS.

24 (j) THE DEPARTMENT OBTAINS CREDIBLE INFORMATION
25 INDICATING THAT THE ALLEGATION OR COMPLAINT IS RESOLVED AND
26 THEREFORE NO LONGER APPROPRIATE FOR INVESTIGATION PURSUANT TO
27 THIS ARTICLE 29.5;

1 (k) A COMPLAINT IS FILED AGAINST A LOCAL EDUCATION PROVIDER
2 THAT RAISES THE SAME OR SIMILAR ALLEGATION BASED ON THE SAME
3 FACTS AGAINST THE SAME LOCAL EDUCATION PROVIDER THAT WAS
4 PREVIOUSLY DISMISSED OR CLOSED BY THE DEPARTMENT;

5 (l) THE DEPARTMENT RECENTLY INVESTIGATED OR IS CURRENTLY
6 INVESTIGATING THE SAME OR SIMILAR ALLEGATION BASED ON THE SAME
7 FACTS INVOLVING THE SAME LOCAL EDUCATION PROVIDER;

8 (m) THE COMPLAINANT WITHDRAWS THE COMPLAINT CONTAINING
9 THE ALLEGATION; OR

10 (n) THE ALLEGATION OR COMPLAINT IS MOOT OR UNRIPE.

11 (6) (a) THE DEPARTMENT MAY DISMISS AN ALLEGATION OR
12 COMPLAINT IF:

13 (I) THE DEPARTMENT'S ABILITY TO COMPLETE AN INVESTIGATION
14 IS SUBSTANTIALLY IMPAIRED BY THE COMPLAINANT'S REFUSAL TO PROVIDE
15 INFORMATION THAT IS REASONABLY ACCESSIBLE TO THE COMPLAINANT
16 AND IS NECESSARY FOR INVESTIGATION OF THE COMPLAINT. THE
17 DEPARTMENT SHALL INCLUDE DOCUMENTATION IN THE CASE FILE OF ITS
18 EFFORTS TO CONTACT THE COMPLAINANT BY PHONE, IN WRITING, OR VIA
19 EMAIL TO REQUEST THE NECESSARY INFORMATION AND OF THE
20 COMPLAINANT'S REFUSAL TO PROVIDE THE INFORMATION.

21 (II) THE DEPARTMENT'S ABILITY TO COMPLETE AN INVESTIGATION
22 IS SUBSTANTIALLY IMPAIRED BY THE COMPLAINANT'S FAILURE TO TIMELY
23 RESPOND TO THE DEPARTMENT'S COMMUNICATIONS. THE DEPARTMENT
24 SHALL INCLUDE DOCUMENTATION IN THE CASE FILE OF ITS UNSUCCESSFUL
25 EFFORTS TO CONTACT THE COMPLAINANT BY PHONE OR IN WRITING TO
26 REQUEST THE NECESSARY INFORMATION.

27 (III) THE ALLEGATION OR COMPLAINT ALLEGES A VIOLATION FOR

1 WHICH NO RELIEF IS AVAILABLE.

2 (b) THE DEPARTMENT HAS THE SOLE DISCRETION TO DETERMINE
3 WHETHER DISMISSAL CRITERIA ARE MET.

4 (7) THE DEPARTMENT HAS THE AUTHORITY TO ENFORCE DECISIONS
5 ISSUED PURSUANT TO THIS SECTION AND REQUIRE A LOCAL EDUCATION
6 PROVIDER TO TAKE CORRECTIVE ACTION IF THERE IS A FINDING OF
7 NONCOMPLIANCE WITH THIS ARTICLE 29.5. IN DETERMINING WHETHER A
8 LOCAL EDUCATION PROVIDER HAS COMPLIED WITH THIS ARTICLE 29.5, THE
9 DEPARTMENT MAY RELY ON INTERPRETATIONS BY FEDERAL COURTS AND
10 AGENCIES OF SECTION 504 AND THE ADA. A LOCAL EDUCATION PROVIDER
11 SHALL CORRECT ITS NONCOMPLIANCE WITH THIS ARTICLE 29.5 AS SOON AS
12 POSSIBLE AND WITHIN A REASONABLE TIME FRAME THAT IS SPECIFIED BY
13 THE DEPARTMENT IN AN ORDER.

14 (8) NO LATER THAN DECEMBER 31, 2026, THE STATE BOARD OF
15 EDUCATION SHALL ADOPT RULES TO ESTABLISH THE DEFINITION OF ANY
16 TERM NOT SPECIFICALLY DEFINED IN THIS ARTICLE 29.5; UNIFORM AND
17 TIMELY METHODS OF COMPLAINT RESOLUTION, INCLUDING RULES
18 PROVIDING FOR THE PROCESS OF FILING A COMPLAINT, WHETHER
19 VOLUNTARY MEDIATION IS AVAILABLE, OR ANY OTHER RELIEF AVAILABLE
20 PRIOR TO THE CONCLUSION OF A FINDING OF NONCOMPLIANCE; AND
21 WHETHER WRITTEN CONSENT TO INVESTIGATE AN ALLEGATION IS
22 REQUIRED. COMPLAINTS MAY BE FILED BY A PARENT, GUARDIAN,
23 STUDENT, EMPLOYEE OF A LOCAL EDUCATION PROVIDER, OR THIRD PARTY.
24 FOR THE COMPLAINT PROCESS, THE TIMELINE SHALL BE NO LONGER THAN
25 ONE HUNDRED EIGHTY DAYS FROM THE DATE OF FILING TO THE DATE OF
26 RESOLUTION, WITH THE ABILITY TO PAUSE THE TIMELINE FOR UP TO SIXTY
27 DAYS PENDING ATTEMPTED RESOLUTION THROUGH OTHER METHODS,

1 INCLUDING VOLUNTARY MEDIATION.

2 (9) (a) A PARENT, GUARDIAN, STUDENT, OR THIRDPARTY MAY FILE
3 A COMPLAINT WITH THE DEPARTMENT ALLEGING A VIOLATION OF THIS
4 ARTICLE 29.5 ONLY AFTER:

5 (I) PURSUING RESOLUTION OF THE SAME ALLEGATION THROUGH
6 THE LOCAL EDUCATION PROVIDER'S DISABILITY RIGHTS GRIEVANCE
7 PROCESS DESCRIBED IN SECTION 22-29.5-104; AND

8 (II) (A) THE LOCAL EDUCATION PROVIDER ISSUES A FINAL
9 DECISION; OR

10 (B) THE LOCAL EDUCATION PROVIDER'S FINAL DECISION HAS NOT
11 BEEN PROVIDED TO THE COMPLAINANT WITHIN SIXTY DAYS OF THE LOCAL
12 EDUCATION PROVIDER'S RECEIPT OF THE COMPLAINT.

13 (b) (I) THE REQUIREMENTS OF SUBSECTION (9)(a) OF THIS SECTION
14 MAY BE WAIVED BY THE DEPARTMENT IF:

15 (A) THE COMPLAINANT DEMONSTRATES THAT USING THE LOCAL
16 EDUCATION PROVIDER'S DISABILITY RIGHTS GRIEVANCE PROCESS WOULD
17 BE FUTILE OR LIKELY CAUSE IRREPARABLE HARM TO THE STUDENT; OR

18 (B) THE LOCAL EDUCATION PROVIDER DOES NOT HAVE A PROMPT
19 AND EQUITABLE OR READILY AVAILABLE DISABILITY RIGHTS GRIEVANCE
20 PROCESS.

21 (II) FOR PURPOSES OF THIS ARTICLE 29.5, TO BE CONSIDERED
22 FUTILE, THE COMPLAINANT MUST SHOW THAT PURSUING RESOLUTION WITH
23 THE LOCAL EDUCATION PROVIDER WOULD BE POINTLESS OR INEFFECTIVE
24 IN PROVIDING RELIEF. EXAMPLES WHERE FUTILITY MAY APPLY INCLUDE:

25 (A) THE LOCAL EDUCATION PROVIDER LACKS THE AUTHORITY TO
26 GRANT THE RELIEF SOUGHT;

27 (B) THE LOCAL EDUCATION PROVIDER'S PROCESS IS BIASED OR

1 UNFAIR, AND THUS UNLIKELY TO RESULT IN A FAIR OUTCOME; HOWEVER,
2 THE COMPLAINT RECIPIENT AND THE ALLEGED DISCRIMINATORY ENTITY
3 BOTH BEING THE LOCAL EDUCATION PROVIDER, ALONE, IS INSUFFICIENT TO
4 DEMONSTRATE BIAS OR UNFAIRNESS;

5 (C) THERE IS A PATTERN OF THE LOCAL EDUCATION PROVIDER
6 FAILING TO RESPOND IN A TIMELY OR APPROPRIATE MANNER TO
7 COMPLAINTS; OR

8 (D) THE LOCAL EDUCATION PROVIDER HAS CLEARLY
9 DEMONSTRATED UNWILLINGNESS TO COMPLY WITH OR PARTICIPATE IN THE
10 PROCESS IN GOOD FAITH.

11 (10) NOTHING IN THIS ARTICLE 29.5 SHALL BE CONSTRUED TO
12 AFFECT ANY ADMINISTRATIVE EXHAUSTION REQUIREMENTS OF FEDERAL
13 LAW, INCLUDING THE IDEA AND SECTION 504.

14 (11) NO PUBLIC ENTITY SHALL ASSERT ANY PROVISION OF THIS
15 ARTICLE 29.5 AS A DEFENSE TO A CLAIM BROUGHT PURSUANT TO FEDERAL
16 LAW, INCLUDING PURSUANT TO THE IDEA AND SECTION 504.

17 **22-29.5-115. Remedies.**

18 (1) IF THE DEPARTMENT FINDS A VIOLATION OF THIS ARTICLE 29.5,
19 IT MAY ORDER:

20 (a) AN AUDIT OF A LOCAL EDUCATION PROVIDER;

21 (b) THE ESTABLISHMENT OF CORRECTIVE ACTION PLANS TO BE
22 FOLLOWED BY THE LOCAL EDUCATION PROVIDER;

23 (c) THAT COMPENSATORY SERVICES OR OTHER INDIVIDUAL
24 REMEDIAL MEASURES BE PROVIDED BY THE LOCAL EDUCATION PROVIDER
25 TO THE QUALIFIED STUDENT WITH A DISABILITY;

26 (d) TRAINING OF THE LOCAL EDUCATION PROVIDER'S STAFF;

27 (e) THE LOCAL EDUCATION PROVIDER TO ADOPT NEW OR REVISED

1 POLICIES, PROCEDURES, RULES, AND FORMS;

2 (f) THE LOCAL EDUCATION PROVIDER TO PROVIDE OR REINSTATE
3 SERVICES OR BENEFITS WRONGFULLY DENIED; AND

4 (g) ANY OTHER REMEDY NECESSARY, AS DETERMINED BY THE
5 DEPARTMENT, TO REMEDY VIOLATIONS OF THIS ARTICLE 29.5 AND
6 PROSPECTIVELY ENSURE COMPLIANCE.

7 (2) A LOCAL EDUCATION PROVIDER MAY CONTRACTUALLY
8 DELEGATE ALL COMPLIANCE WITH THIS ARTICLE 29.5 TO ANOTHER LOCAL
9 EDUCATION PROVIDER. NEITHER LOCAL EDUCATION PROVIDER MAY
10 IMPEDE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE 29.5, AND
11 BOTH LOCAL EDUCATION PROVIDERS MUST COOPERATE WITH ANY
12 COMPLAINT INVESTIGATION PURSUANT TO THIS ARTICLE 29.5.

13 (3) THE DEPARTMENT MAY MONITOR A LOCAL EDUCATION
14 PROVIDER'S COMPLIANCE WITH THE DEPARTMENT'S ORDER FOR UP TO ONE
15 YEAR AFTER THE FINDING OF A VIOLATION BY THE DEPARTMENT BY
16 REQUIRING THE LOCAL EDUCATION PROVIDER TO IMPLEMENT A
17 CORRECTIVE ACTION PLAN THAT WOULD REMEDY THE VIOLATION.

18 (4) (a) THE STATE BOARD OF EDUCATION MAY WITHHOLD STATE
19 FUNDS FROM A LOCAL EDUCATION PROVIDER IF THE STATE BOARD OF
20 EDUCATION DETERMINES THAT THE LOCAL EDUCATION PROVIDER HAS
21 INTENTIONALLY VIOLATED THIS ARTICLE 29.5 AND DEMONSTRATED AN
22 UNWILLINGNESS TO ENTER INTO A CORRECTIVE ACTION PLAN TO ADDRESS
23 THE VIOLATION.

24 (b) NO LATER THAN DECEMBER 31, 2026, THE STATE BOARD OF
25 EDUCATION SHALL ADOPT RULES THAT ESTABLISH PROCEDURES FOR THE
26 WITHHOLDING OF FUNDS PURSUANT TO THIS ARTICLE 29.5.

27 **22-29.5-116. Claim preclusion.**

1 (1) IF AN INDIVIDUAL FILES A COMPLAINT WITH THE DEPARTMENT
2 AND FILES A SUBSTANTIALLY SIMILAR COMPLAINT BASED ON THE SAME
3 ALLEGED FACTS WITH THE UNITED STATES DEPARTMENT OF EDUCATION
4 OFFICE OF CIVIL RIGHTS OR THE UNITED STATES DEPARTMENT OF JUSTICE,
5 THE DEPARTMENT MAY:

6 (a) DISMISS THE COMPLAINT IF THE INDIVIDUAL FILED THE
7 COMPLAINT WITH THE UNITED STATES DEPARTMENT OF EDUCATION
8 OFFICE OF CIVIL RIGHTS BEFORE FILING THE COMPLAINT WITH THE
9 DEPARTMENT; OR

10 (b) NULLIFY, REVOKE, OR VOID ANY FINDINGS MADE OR REMEDIES
11 PRESCRIBED IF THE INDIVIDUAL FILED THE COMPLAINT WITH THE UNITED
12 STATES DEPARTMENT OF EDUCATION OFFICE OF CIVIL RIGHTS AFTER THE
13 RESOLUTION OF THE COMPLAINT WITH THE DEPARTMENT.

14 (2) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO LIMIT THE
15 RIGHTS OF INDIVIDUALS TO PURSUE CLAIMS UNDER FEDERAL LAW OR
16 OTHER STATE LAW.

17 **22-29.5-117. Retaliation.**

18 (1) A LOCAL EDUCATION PROVIDER SHALL NOT COERCE,
19 INTIMIDATE, THREATEN, OR DISCRIMINATE AGAINST ANY INDIVIDUAL:

20 (a) FOR THE PURPOSE OF INTERFERING WITH ANY RIGHT OR
21 PRIVILEGE SECURED BY THIS ARTICLE 29.5, THE IDEA, SECTION 504, THE
22 ADA, THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20
23 OF THIS TITLE 22, OR THE "PROTECTION OF STUDENTS FROM RESTRAINT
24 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22;

25 (b) BECAUSE AN INDIVIDUAL MAKES OR HAS MADE, OR BECAUSE
26 A LOCAL EDUCATION PROVIDER BELIEVES AN INDIVIDUAL HAS MADE OR
27 WILL MAKE, A COMPLAINT UNDER THIS ARTICLE 29.5, THE IDEA, THE

1 ADA, THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20
2 OF THIS TITLE 22, OR THE "PROTECTION OF STUDENTS FROM RESTRAINT
3 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22; OR

4 (c) BECAUSE AN INDIVIDUAL TESTIFIES, ASSISTS, OR PARTICIPATES
5 IN ANY MANNER IN AN INVESTIGATION OR PROCEEDING REGARDING AN
6 ALLEGATION OR COMPLAINT PURSUANT TO THIS ARTICLE 29.5, THE IDEA,
7 THE ADA, THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE
8 20 OF THIS TITLE 22, OR THE "PROTECTION OF STUDENTS FROM RESTRAINT
9 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22.

10 (2) ALLEGATIONS OF COERCION, INTIMIDATION, THREATS,
11 DISCRIMINATION, OR OTHER RETALIATION AS DESCRIBED IN THIS SECTION
12 AGAINST ANY INDIVIDUAL MAY BE FILED WITH THE DEPARTMENT, AND THE
13 DEPARTMENT SHALL PROCESS AND EVALUATE SUCH ALLEGATIONS
14 PURSUANT TO THIS ARTICLE 29.5.

15 **SECTION 2. Safety clause.** The general assembly finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, or safety or for appropriations for
18 the support and maintenance of the departments of the state and state
19 institutions.