

**Second Regular Session
Seventy-fifth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

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
Appropriations

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 (3) A LOCAL EDUCATION PROVIDER SHALL PROVIDE REASONABLE
23 ACCOMMODATION TO A PARENT WITH A DISABILITY WHO IS SEEKING
24 APPROPRIATE ACCESS TO PROGRAMS OR ACTIVITIES FOR PARENTS IN
25 RELATION TO THAT PARENT'S CHILD. SUCH ACCOMMODATION SHALL
26 INCLUDE COMMUNICATION WITH A PARENT WITH LIMITED ENGLISH
27 PROFICIENCY OR A COMMUNICATION-RELATED DISABILITY CONSISTENT

1 WITH THE STANDARDS STATED IN SECTION 22-29.5-106.

2 **22-29.5-106. Effective communication.**

3 (1) A LOCAL EDUCATION PROVIDER SHALL ENSURE THAT
4 COMMUNICATION WITH A QUALIFIED STUDENT WITH A DISABILITY IS AS
5 EFFECTIVE AS COMMUNICATION WITH A STUDENT WITHOUT A DISABILITY.

6 (2) A LOCAL EDUCATION PROVIDER SHALL FURNISH APPROPRIATE
7 AUXILIARY AIDS AND SERVICES WHERE NECESSARY TO AFFORD A
8 QUALIFIED STUDENT WITH A DISABILITY AN EQUAL OPPORTUNITY TO
9 PARTICIPATE IN AND ENJOY THE BENEFITS OF A SERVICE, PROGRAM, OR
10 ACTIVITY OF THE LOCAL EDUCATION PROVIDER.

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

14 (a) METHOD OF COMMUNICATION USED BY THE QUALIFIED
15 STUDENT WITH A DISABILITY;

16 (b) NATURE, LENGTH, AND COMPLEXITY OF THE INVOLVED
17 COMMUNICATION; AND

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

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

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

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

6 (I) IN AN EMERGENCY INVOLVING AN IMMINENT THREAT TO THE
7 SAFETY OR WELFARE OF AN INDIVIDUAL OR THE PUBLIC AND NO
8 INTERPRETER IS AVAILABLE; OR

9 (II) WHEN THE QUALIFIED STUDENT WITH A DISABILITY
10 SPECIFICALLY REQUESTS THAT THE ACCOMPANYING ADULT INTERPRET OR
11 FACILITATE COMMUNICATION, THE ACCOMPANYING ADULT AGREES TO
12 PROVIDE SUCH ASSISTANCE, AND RELIANCE ON THAT ADULT FOR SUCH
13 ASSISTANCE IS APPROPRIATE UNDER THE CIRCUMSTANCES.

14 (c) A LOCAL EDUCATION PROVIDER SHALL NOT RELY ON A MINOR
15 TO INTERPRET OR FACILITATE COMMUNICATION, EXCEPT IN AN
16 EMERGENCY INVOLVING AN IMMINENT THREAT TO THE SAFETY OR
17 WELFARE OF AN INDIVIDUAL OR THE PUBLIC AND NO INTERPRETER IS
18 AVAILABLE.

19 **22-29.5-107. Physical accessibility - definition.**

20 NO QUALIFIED STUDENT WITH A DISABILITY MAY BE DENIED THE
21 BENEFITS OF, BE EXCLUDED FROM PARTICIPATION IN, OR OTHERWISE BE
22 SUBJECTED TO DISCRIMINATION UNDER A LOCAL EDUCATION PROVIDER'S
23 PROGRAMS OR ACTIVITIES BECAUSE THE LOCAL EDUCATION PROVIDER'S
24 FACILITIES ARE INACCESSIBLE TO OR CANNOT BE ACCESSED SAFELY BY
25 PERSONS WITH DISABILITIES. IN IMPLEMENTING THIS SECTION, LOCAL
26 EDUCATION PROVIDERS MAY REFER TO THE SECTION 504 REGULATIONS AT
27 SUBPART C, THE ADA REGULATIONS AT SUBPART D, AND ACCESSIBILITY

1 STANDARDS SUCH AS THE UNIFORM FEDERAL ACCESSIBILITY STANDARDS,
2 THE 1991 ADA STANDARDS FOR ACCESSIBLE DESIGN, AND THE 2010 ADA
3 STANDARDS FOR ACCESSIBLE DESIGN.

4 **22-29.5-108. Free and appropriate public education.**

5 (1) A LOCAL EDUCATION PROVIDER SHALL PROVIDE A FREE AND
6 APPROPRIATE PUBLIC EDUCATION TO EACH QUALIFIED STUDENT WITH A
7 DISABILITY WHO IS IN THE LOCAL EDUCATION PROVIDER'S JURISDICTION,
8 REGARDLESS OF THE NATURE OR SEVERITY OF THE STUDENT'S DISABILITY.

9 (2) A LOCAL EDUCATION PROVIDER SHALL ENSURE THAT A
10 QUALIFIED STUDENT WITH A DISABILITY WITHIN THAT LOCAL EDUCATION
11 PROVIDER'S JURISDICTION RECEIVES AN APPROPRIATE EDUCATION EVEN IF
12 THE STUDENT IS PLACED OR REFERRED TO A PROGRAM, AID, BENEFIT, OR
13 SERVICE OTHER THAN ONE OPERATED BY THE LOCAL EDUCATION
14 PROVIDER.

15 (3) A FREE EDUCATION MAY CONSIST OF EITHER THE PROVISION OF
16 FREE SERVICES OR PAYMENT TO A THIRD PARTY IF THE LOCAL EDUCATION
17 PROVIDER PLACES A QUALIFIED STUDENT WITH A DISABILITY IN A
18 PROGRAM OTHER THAN ONE OPERATED BY THE LOCAL EDUCATION
19 PROVIDER.

20 (4) IF A LOCAL EDUCATION PROVIDER PLACES A QUALIFIED
21 STUDENT WITH A DISABILITY OR REFERS SUCH STUDENT FOR AID, BENEFITS,
22 OR SERVICES AT A FACILITY NOT OPERATED OR PROVIDED BY THE LOCAL
23 EDUCATION PROVIDER AS A MEANS OF PROVIDING A FREE AND
24 APPROPRIATE PUBLIC EDUCATION, THE REFERRING LOCAL EDUCATION
25 PROVIDER SHALL ENSURE THAT THE QUALIFIED STUDENT WITH A
26 DISABILITY HAS ADEQUATE TRANSPORTATION TO AND FROM THE FACILITY
27 WHERE THE AID, BENEFITS, OR SERVICES ARE PROVIDED. THE

1 TRANSPORTATION MUST BE PROVIDED AT NO GREATER COST THAN WOULD
2 BE INCURRED BY THE QUALIFIED STUDENT WITH A DISABILITY OR THEIR
3 PARENT IF THE STUDENT RECEIVED THE AIDS, BENEFITS, OR SERVICES FROM
4 THE REFERRING LOCAL EDUCATION PROVIDER.

5 (5) IF IT IS NECESSARY FOR A QUALIFIED STUDENT WITH A
6 DISABILITY TO BE PLACED IN A PUBLIC OR PRIVATE RESIDENTIAL FACILITY
7 TO PROVIDE THE STUDENT WITH A FREE AND APPROPRIATE PUBLIC
8 EDUCATION, AS DETERMINED BY A SECTION 504 TEAM OR IEP TEAM, THE
9 PLACEMENT, INCLUDING NONMEDICAL CARE AND ROOM AND BOARD,
10 SHALL BE PROVIDED AT NO COST TO THE STUDENT OR THEIR PARENTS OR
11 GUARDIANS.

12 (6) IF A LOCAL EDUCATION PROVIDER HAS MADE AVAILABLE A
13 FREE AND APPROPRIATE PUBLIC EDUCATION TO A QUALIFIED STUDENT
14 WITH A DISABILITY PURSUANT TO THIS SECTION AND THE STUDENT'S
15 PARENTS OR GUARDIANS CHOOSE TO PLACE THE STUDENT IN A PRIVATE
16 SCHOOL, THE LOCAL EDUCATION PROVIDER IS NOT REQUIRED TO PAY FOR
17 THE STUDENT'S EDUCATION IN THE PRIVATE SCHOOL.

18 **22-29.5-109. Least restrictive environment - academic settings**
19 **- nonacademic settings - comparable facilities.**

20 (1) A LOCAL EDUCATION PROVIDER SHALL PROVIDE A FREE AND
21 APPROPRIATE PUBLIC EDUCATION TO EACH QUALIFIED STUDENT WITH A
22 DISABILITY WITHIN ITS JURISDICTION WITH STUDENTS WITHOUT
23 DISABILITIES TO THE MAXIMUM EXTENT APPROPRIATE BASED ON THE
24 NEEDS OF THE QUALIFIED STUDENT WITH A DISABILITY. A LOCAL
25 EDUCATION PROVIDER SHALL PLACE A QUALIFIED STUDENT WITH A
26 DISABILITY IN THE REGULAR EDUCATIONAL ENVIRONMENT OPERATED BY
27 THE LOCAL EDUCATION PROVIDER UNLESS IT IS DEMONSTRATED THAT THE

1 EDUCATION OF THE STUDENT IN THAT ENVIRONMENT CANNOT BE
2 ACHIEVED SATISFACTORILY, EVEN WITH THE USE OF SUPPLEMENTARY AIDS
3 AND SERVICES. WHENEVER A LOCAL EDUCATION PROVIDER PLACES A
4 STUDENT IN A SETTING OTHER THAN THE REGULAR EDUCATIONAL
5 ENVIRONMENT PURSUANT TO THIS SUBSECTION (1), IT SHALL CONSIDER
6 THE PROXIMITY OF THE ALTERNATE SETTING TO THE STUDENT'S HOME.

7 (2) IN PROVIDING OR ARRANGING FOR THE PROVISION OF
8 NONACADEMIC SERVICES AND ACTIVITIES, INCLUDING MEALS, SPECIALS,
9 RECESS PERIODS, AND EXTRACURRICULAR ACTIVITIES, A LOCAL
10 EDUCATION PROVIDER SHALL ENSURE THAT A QUALIFIED STUDENT WITH
11 A DISABILITY PARTICIPATES IN SUCH ACTIVITIES AND SERVICES WITH
12 STUDENTS WITHOUT DISABILITIES TO THE MAXIMUM EXTENT APPROPRIATE
13 BASED ON THE NEEDS OF THE QUALIFIED STUDENT WITH A DISABILITY.

14 (3) IF A LOCAL EDUCATION PROVIDER, IN COMPLIANCE WITH
15 SUBSECTION (1) OF THIS SECTION, OPERATES A FACILITY THAT IS
16 IDENTIFIABLE AS BEING FOR STUDENTS WITH DISABILITIES, THE LOCAL
17 EDUCATION PROVIDER SHALL ENSURE THE FACILITY AND THE SERVICES
18 AND ACTIVITIES PROVIDED THEREIN ARE COMPARABLE TO THE FACILITIES,
19 SERVICES, AND ACTIVITIES OF THE LOCAL EDUCATION PROVIDER.

20 **22-29.5-110. Nonacademic and extracurricular services and**
21 **activities - counseling services - physical education - athletics.**

22 (1) A LOCAL EDUCATION PROVIDER SHALL PROVIDE NONACADEMIC
23 AND EXTRACURRICULAR SERVICES AND ACTIVITIES IN SUCH A MANNER AS
24 IS NECESSARY TO AFFORD A QUALIFIED STUDENT WITH A DISABILITY AN
25 EQUAL OPPORTUNITY TO PARTICIPATE IN THE SERVICES AND ACTIVITIES.
26 NONACADEMIC AND EXTRACURRICULAR SERVICES AND ACTIVITIES
27 INCLUDE COUNSELING SERVICES, TRANSPORTATION, HEALTH SERVICES,

1 ATHLETICS, COURSES, SPECIAL INTEREST GROUPS OR CLUBS, REFERRALS,
2 AND EMPLOYMENT OF STUDENTS.

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

7 (3) A LOCAL EDUCATION PROVIDER THAT PROVIDES SEPARATE OR
8 DIFFERENT PHYSICAL EDUCATION AND ATHLETIC ACTIVITIES TO STUDENTS
9 WITH DISABILITIES MAY DO SO ONLY IF CONSISTENT WITH THE LEAST
10 RESTRICTIVE ENVIRONMENT REQUIREMENTS IN SECTION 22-29.5-109 AND
11 ONLY IF A QUALIFIED STUDENT WITH A DISABILITY IS NOT DENIED THE
12 OPPORTUNITY TO COMPETE FOR ATHLETIC TEAMS OR TO PARTICIPATE IN
13 ATHLETICS COURSES THAT ARE NOT SEPARATE OR DIFFERENT FROM THOSE
14 TEAMS OR COURSES OFFERED TO STUDENTS WITHOUT DISABILITIES.
15 COMPETITIVE OR SELECTIVE PROGRAMS MAY REQUIRE A SELECTION
16 PROCESS IF THE PROGRAM CRITERIA IS NOT DISCRIMINATORY.

17 **22-29.5-111. Evaluation - consent - procedure - reevaluation.**

18 (1) AT LEAST ANNUALLY, A LOCAL EDUCATION PROVIDER MUST
19 TAKE APPROPRIATE STEPS TO IDENTIFY AND LOCATE EVERY QUALIFIED
20 STUDENT WITH A DISABILITY WHO RESIDES IN THE LOCAL EDUCATION
21 PROVIDER'S JURISDICTION AND WHO IS NOT RECEIVING A PUBLIC
22 EDUCATION AND TAKE APPROPRIATE STEPS TO NOTIFY THEIR PARENT OF
23 THE LOCAL EDUCATION PROVIDER'S DUTY TO IDENTIFY AND LOCATE THE
24 STUDENT IN ACCORDANCE WITH THIS SECTION.

25 (2) PRIOR TO EVALUATING A STUDENT UNDER THIS SECTION, A
26 LOCAL EDUCATION PROVIDER SHALL NOTIFY THE STUDENT'S PARENT OF
27 THE PROPOSED EVALUATION AND OBTAIN CONSENT FROM THE PARENT TO

1 EVALUATE THE STUDENT.

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

7 (4) A LOCAL EDUCATION PROVIDER SHALL ESTABLISH AND COMPLY
8 WITH STANDARDS AND PROCEDURES FOR EVALUATIONS THAT ARE
9 CONSISTENT WITH THE REQUIREMENTS OF THIS SECTION AND SHALL
10 ENSURE THAT:

11 (a) TESTS AND OTHER EVALUATION MATERIALS HAVE BEEN
12 VALIDATED FOR THE SPECIFIC PURPOSE FOR WHICH THEY ARE USED AND
13 ARE ADMINISTERED BY TRAINED PERSONNEL IN CONFORMANCE WITH THE
14 INSTRUCTIONS PROVIDED BY THEIR PRODUCER;

15 (b) TESTS AND OTHER EVALUATION MATERIALS INCLUDE THOSE
16 CRITERIA TAILORED TO ASSESS SPECIFIC AREAS OF EDUCATIONAL NEED
17 AND NOT MERELY THOSE WHICH ARE DESIGNED TO PROVIDE A SINGLE
18 GENERAL INTELLIGENCE QUOTIENT; AND

19 (c) TESTS ARE SELECTED AND ADMINISTERED TO BEST ENSURE
20 THAT, WHEN A TEST IS ADMINISTERED TO A STUDENT WITH IMPAIRED
21 SENSORY, MANUAL, OR SPEAKING SKILLS, THE TEST RESULTS ACCURATELY
22 REFLECT THE STUDENT'S APTITUDE OR ACHIEVEMENT LEVEL OR OTHER
23 FACTOR THAT THE TEST PURPORTS TO MEASURE, RATHER THAN
24 REFLECTING THE STUDENT'S IMPAIRED SENSORY, MANUAL, OR SPEAKING
25 SKILLS, EXCEPT WHERE THOSE SKILLS ARE THE FACTORS THAT THE TEST
26 PURPORTS TO MEASURE.

27 (5) IN INTERPRETING EVALUATION DATA AND IN MAKING

1 PLACEMENT DECISIONS, A LOCAL EDUCATION PROVIDER SHALL:

2 (a) DRAW UPON INFORMATION FROM A VARIETY OF SOURCES,
3 INCLUDING APTITUDE AND ACHIEVEMENT TESTS, TEACHER
4 RECOMMENDATIONS, PHYSICAL CONDITION, SOCIAL OR CULTURAL
5 BACKGROUND, AND ADAPTIVE BEHAVIOR;

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

8 (c) ENSURE THAT THE ELIGIBILITY DETERMINATION AND
9 PLACEMENT DECISION IS MADE BY A GROUP OF PERSONS THAT ARE
10 KNOWLEDGEABLE ABOUT THE CHILD, THE MEANING OF THE EVALUATION
11 DATA, AND THE PLACEMENT OPTIONS; AND

12 (d) ENSURE THAT THE PLACEMENT DECISION IS MADE IN
13 CONFORMITY WITH THE LEAST RESTRICTIVE ENVIRONMENT PROVISIONS IN
14 SECTION 22-29.5-109.

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

19 (7) A LOCAL EDUCATION PROVIDER SATISFIES THE EVALUATION
20 REQUIREMENTS IF:

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

23 (b) THE LOCAL EDUCATION PROVIDER AND PARENT AGREE ON THE
24 STUDENT'S ELIGIBILITY AND PLACEMENT, INCLUDING THE SERVICES AND
25 ACCOMMODATIONS THE STUDENT NEEDS.

26 **22-29.5-112. Procedural safeguards.**

27 A LOCAL EDUCATION PROVIDER SHALL ESTABLISH AND IMPLEMENT,

1 WITH RESPECT TO ACTIONS REGARDING THE IDENTIFICATION, EVALUATION,
2 OR EDUCATIONAL PLACEMENT OF A STUDENT WHO MAY HAVE A
3 DISABILITY, A SYSTEM OF PROCEDURAL SAFEGUARDS THAT INCLUDES
4 NOTICE OF THE PROPOSED IDENTIFICATION, EVALUATION DETERMINATION,
5 OR EDUCATIONAL PLACEMENT DECISION, AN OPPORTUNITY FOR A PARENT
6 OF THE STUDENT TO EXAMINE RELEVANT RECORDS, AN IMPARTIAL
7 HEARING WITH OPPORTUNITY FOR PARTICIPATION BY THE STUDENT'S
8 PARENT AND REPRESENTATION BY LEGAL COUNSEL, AND AN OPPORTUNITY
9 TO APPEAL AN IMPARTIAL HEARING OUTCOME. COMPLIANCE WITH THE
10 PROCEDURAL SAFEGUARDS OF THE IDEA IS ONE MEANS OF MEETING THIS
11 REQUIREMENT.

12 **22-29.5-113. Harassment.**

13 (1) A LOCAL EDUCATION PROVIDER SHALL ENSURE THAT A
14 QUALIFIED STUDENT WITH A DISABILITY IS FREE FROM HARASSMENT THAT
15 CREATES A HOSTILE ENVIRONMENT. A "HOSTILE ENVIRONMENT" INCLUDES
16 AN ENVIRONMENT THAT INTERFERES WITH OR LIMITS THE STUDENT'S
17 ABILITY TO PARTICIPATE IN OR BENEFIT FROM THE LOCAL EDUCATION
18 PROVIDER'S SERVICES, ACTIVITIES, OR OPPORTUNITIES.

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

23 (3) IF THE INVESTIGATION REQUIRED BY SUBSECTION (2) OF THIS
24 SECTION REVEALS THAT DISABILITY-BASED HARASSMENT IS SUFFICIENTLY
25 SERIOUS TO CREATE A HOSTILE ENVIRONMENT, THE LOCAL EDUCATION
26 PROVIDER MUST TAKE PROMPT AND EFFECTIVE STEPS REASONABLY
27 CALCULATED TO END THE DISABILITY-BASED HARASSMENT, ELIMINATE

1 THE HOSTILE ENVIRONMENT, PREVENT HARASSMENT AND A HOSTILE
2 ENVIRONMENT FROM RECURRING, AND, AS APPROPRIATE, REMEDY THE
3 HOSTILE ENVIRONMENT'S EFFECTS.

4 (4) HARASSMENT ON ANY BASIS MAY ALSO IMPACT A QUALIFIED
5 STUDENT WITH A DISABILITY'S RECEIPT OF A FREE AND APPROPRIATE
6 PUBLIC EDUCATION, IN WHICH CASE THE EFFECTS OF HARASSMENT, EVEN
7 IF NOT BASED ON DISABILITY, MUST BE ADDRESSED BY THE STUDENT'S
8 SECTION 504 TEAM OR IEP TEAM.

9 **22-29.5-114. Training - technical assistance - enforcement -**
10 **allegation - complaint - dismissal - corrective action - exhaustion of**
11 **administrative remedies.**

12 (1) THE DEPARTMENT SHALL PROVIDE TRAINING AND TECHNICAL
13 ASSISTANCE TO LOCAL EDUCATION PROVIDERS ABOUT THE REQUIREMENTS
14 OF THIS ARTICLE 29.5.

15 (2) THE DEPARTMENT HAS THE AUTHORITY TO INVESTIGATE AND
16 RESOLVE COMPLAINTS OF ALLEGED VIOLATIONS OF THIS ARTICLE 29.5 AND
17 THE AUTHORITY TO MONITOR THE IMPLEMENTATION OF THE
18 REQUIREMENTS OF THIS ARTICLE 29.5.

19 (3) A COMPLAINANT MUST ALLEGE VIOLATIONS THAT OCCURRED
20 WITHIN ONE CALENDAR YEAR BEFORE THE DATE THE COMPLAINT IS FILED
21 WITH THE DEPARTMENT, OR WITHIN SIXTY DAYS FOLLOWING RESOLUTION
22 OR TERMINATION OF THE PROCESS DESCRIBED IN SUBSECTION (6) OF THIS
23 SECTION.

24 (4) THE COLORADO CIVIL RIGHTS DIVISION SHALL NOT HAVE
25 JURISDICTION OVER ALLEGATIONS OR COMPLAINTS THAT FALL WITHIN THE
26 SCOPE OF THIS ARTICLE 29.5. THE COLORADO CIVIL RIGHTS DIVISION
27 SHALL ESTABLISH A SYSTEM TO ENSURE SUCH ALLEGATIONS OR

1 COMPLAINTS ARE REFERRED TO THE DEPARTMENT WITHIN TEN DAYS OF
2 RECEIVING AN ALLEGATION OR COMPLAINT.

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

5 (a) (I) THE ALLEGATION, ON ITS FACE OR AS CLARIFIED, FAILS TO
6 STATE A VIOLATION OF THIS ARTICLE 29.5, WHEN THE ALLEGATION, ON ITS
7 FACE OR AS CLARIFIED, LACKS SUFFICIENT FACTUAL DETAIL, OR WHEN THE
8 ALLEGATION IS SO SPECULATIVE, CONCLUSORY, OR INCOHERENT, THAT
9 THE DEPARTMENT CANNOT REASONABLY INFER THAT A VIOLATION OF THIS
10 ARTICLE 29.5 OCCURRED OR MAY BE OCCURRING; OR

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

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

27 (c) THE ALLEGATION OR COMPLAINT IS NOT TIMELY FILED WITH

1 THE DEPARTMENT;

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

4 (e) THE DEATH OF THE COMPLAINANT MAKES IT IMPOSSIBLE TO
5 FULLY INVESTIGATE THE ALLEGATION;

6 (f) THE DEATH OF THE COMPLAINANT FORECLOSES THE POSSIBILITY
7 OF INDIVIDUAL RELIEF;

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

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

23 (i) THE SAME OR SIMILAR ALLEGATION OR COMPLAINT, BASED ON
24 THE SAME FACTS, HAS ALREADY BEEN FILED IN STATE OR FEDERAL COURT.
25 IF THE COURT CASE ENDS WITHOUT A DECISION ON THE MERITS OR A
26 SETTLEMENT, THE COMPLAINT MAY BE FILED OR REFILED WITH THE
27 DEPARTMENT WITHIN SIXTY DAYS OF THE END OF THE COURT CASE. FOR

1 PURPOSES OF THIS SECTION, A DISMISSAL WITH PREJUDICE IS CONSIDERED
2 A DECISION ON THE MERITS AND A DISMISSAL WITHOUT PREJUDICE IS NOT
3 A DECISION ON THE MERITS.

4 (j) THE DEPARTMENT OBTAINS CREDIBLE INFORMATION
5 INDICATING THAT THE ALLEGATION OR COMPLAINT IS RESOLVED AND
6 THEREFORE NO LONGER APPROPRIATE FOR INVESTIGATION PURSUANT TO
7 THIS ARTICLE 29.5;

8 (k) A COMPLAINT IS FILED AGAINST A LOCAL EDUCATION PROVIDER
9 THAT RAISES THE SAME OR SIMILAR ALLEGATION BASED ON THE SAME
10 FACTS AGAINST THE SAME LOCAL EDUCATION PROVIDER THAT WAS
11 PREVIOUSLY DISMISSED OR CLOSED BY THE DEPARTMENT;

12 (l) THE DEPARTMENT RECENTLY INVESTIGATED OR IS CURRENTLY
13 INVESTIGATING THE SAME OR SIMILAR ALLEGATION BASED ON THE SAME
14 FACTS INVOLVING THE SAME LOCAL EDUCATION PROVIDER;

15 (m) THE COMPLAINANT WITHDRAWS THE COMPLAINT CONTAINING
16 THE ALLEGATION; OR

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

18 (6) (a) THE DEPARTMENT MAY DISMISS AN ALLEGATION OR
19 COMPLAINT IF:

20 (I) THE DEPARTMENT'S ABILITY TO COMPLETE AN INVESTIGATION
21 IS SUBSTANTIALLY IMPAIRED BY THE COMPLAINANT'S REFUSAL TO PROVIDE
22 INFORMATION THAT IS REASONABLY ACCESSIBLE TO THE COMPLAINANT
23 AND IS NECESSARY FOR INVESTIGATION OF THE COMPLAINT. THE
24 DEPARTMENT SHALL INCLUDE DOCUMENTATION IN THE CASE FILE OF ITS
25 EFFORTS TO CONTACT THE COMPLAINANT BY PHONE, IN WRITING, OR VIA
26 EMAIL TO REQUEST THE NECESSARY INFORMATION AND OF THE
27 COMPLAINANT'S REFUSAL TO PROVIDE THE INFORMATION.

1 (II) THE DEPARTMENT'S ABILITY TO COMPLETE AN INVESTIGATION
2 IS SUBSTANTIALLY IMPAIRED BY THE COMPLAINANT'S FAILURE TO TIMELY
3 RESPOND TO THE DEPARTMENT'S COMMUNICATIONS. THE DEPARTMENT
4 SHALL INCLUDE DOCUMENTATION IN THE CASE FILE OF ITS UNSUCCESSFUL
5 EFFORTS TO CONTACT THE COMPLAINANT BY PHONE OR IN WRITING TO
6 REQUEST THE NECESSARY INFORMATION.

7 (III) THE ALLEGATION OR COMPLAINT ALLEGES A VIOLATION FOR
8 WHICH NO RELIEF IS AVAILABLE.

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

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

21 (8) NO LATER THAN DECEMBER 31, 2026, THE STATE BOARD OF
22 EDUCATION SHALL ADOPT RULES TO ESTABLISH THE DEFINITION OF ANY
23 TERM NOT SPECIFICALLY DEFINED IN THIS ARTICLE 29.5; UNIFORM AND
24 TIMELY METHODS OF COMPLAINT RESOLUTION, INCLUDING RULES
25 PROVIDING FOR THE PROCESS OF FILING A COMPLAINT, WHETHER
26 VOLUNTARY MEDIATION IS AVAILABLE, OR ANY OTHER RELIEF AVAILABLE
27 PRIOR TO THE CONCLUSION OF A FINDING OF NONCOMPLIANCE; AND

1 WHETHER WRITTEN CONSENT TO INVESTIGATE AN ALLEGATION IS
2 REQUIRED. COMPLAINTS MAY BE FILED BY A PARENT, GUARDIAN,
3 STUDENT, EMPLOYEE OF A LOCAL EDUCATION PROVIDER, OR THIRD PARTY.
4 FOR THE COMPLAINT PROCESS, THE TIMELINE SHALL BE NO LONGER THAN
5 ONE HUNDRED EIGHTY DAYS FROM THE DATE OF FILING TO THE DATE OF
6 RESOLUTION, WITH THE ABILITY TO PAUSE THE TIMELINE FOR UP TO SIXTY
7 DAYS PENDING ATTEMPTED RESOLUTION THROUGH OTHER METHODS,
8 INCLUDING VOLUNTARY MEDIATION.

9 (9) (a) A PARENT, GUARDIAN, STUDENT, OR THIRD PARTY MAY FILE
10 A COMPLAINT WITH THE DEPARTMENT ALLEGING A VIOLATION OF THIS
11 ARTICLE 29.5 ONLY AFTER:

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

15 (II) (A) THE LOCAL EDUCATION PROVIDER ISSUES A FINAL
16 DECISION; OR

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

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

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

25 (B) THE LOCAL EDUCATION PROVIDER DOES NOT HAVE A PROMPT
26 AND EQUITABLE OR READILY AVAILABLE DISABILITY RIGHTS GRIEVANCE
27 PROCESS.

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

5 (A) THE LOCAL EDUCATION PROVIDER LACKS THE AUTHORITY TO
6 GRANT THE RELIEF SOUGHT;

7 (B) THE LOCAL EDUCATION PROVIDER'S PROCESS IS BIASED OR
8 UNFAIR, AND THUS UNLIKELY TO RESULT IN A FAIR OUTCOME; HOWEVER,
9 THE COMPLAINT RECIPIENT AND THE ALLEGED DISCRIMINATORY ENTITY
10 BOTH BEING THE LOCAL EDUCATION PROVIDER, ALONE, IS INSUFFICIENT TO
11 DEMONSTRATE BIAS OR UNFAIRNESS;

12 (C) THERE IS A PATTERN OF THE LOCAL EDUCATION PROVIDER
13 FAILING TO RESPOND IN A TIMELY OR APPROPRIATE MANNER TO
14 COMPLAINTS; OR

15 (D) THE LOCAL EDUCATION PROVIDER HAS CLEARLY
16 DEMONSTRATED UNWILLINGNESS TO COMPLY WITH OR PARTICIPATE IN THE
17 PROCESS IN GOOD FAITH.

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

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

24 **22-29.5-115. Remedies.**

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

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

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

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

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

7 (e) THE LOCAL EDUCATION PROVIDER TO ADOPT NEW OR REVISED
8 POLICIES, PROCEDURES, RULES, AND FORMS;

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

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

14 (2) A LOCAL EDUCATION PROVIDER MAY CONTRACTUALLY
15 DELEGATE ALL COMPLIANCE WITH THIS ARTICLE 29.5 TO ANOTHER LOCAL
16 EDUCATION PROVIDER. NEITHER LOCAL EDUCATION PROVIDER MAY
17 IMPEDE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE 29.5, AND
18 BOTH LOCAL EDUCATION PROVIDERS MUST COOPERATE WITH ANY
19 COMPLAINT INVESTIGATION PURSUANT TO THIS ARTICLE 29.5.

20 (3) THE DEPARTMENT MAY MONITOR A LOCAL EDUCATION
21 PROVIDER'S COMPLIANCE WITH THE DEPARTMENT'S ORDER FOR UP TO ONE
22 YEAR AFTER THE FINDING OF A VIOLATION BY THE DEPARTMENT BY
23 REQUIRING THE LOCAL EDUCATION PROVIDER TO IMPLEMENT A
24 CORRECTIVE ACTION PLAN THAT WOULD REMEDY THE VIOLATION.

25 (4) (a) THE STATE BOARD OF EDUCATION MAY WITHHOLD STATE
26 FUNDS FROM A LOCAL EDUCATION PROVIDER IF THE STATE BOARD OF
27 EDUCATION DETERMINES THAT THE LOCAL EDUCATION PROVIDER HAS

1 INTENTIONALLY VIOLATED THIS ARTICLE 29.5 AND DEMONSTRATED AN
2 UNWILLINGNESS TO ENTER INTO A CORRECTIVE ACTION PLAN TO ADDRESS
3 THE VIOLATION.

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

7 **22-29.5-116. Claim preclusion.**

8 (1) IF AN INDIVIDUAL FILES A COMPLAINT WITH THE DEPARTMENT
9 AND FILES A SUBSTANTIALLY SIMILAR COMPLAINT BASED ON THE SAME
10 ALLEGED FACTS WITH THE UNITED STATES DEPARTMENT OF EDUCATION
11 OFFICE OF CIVIL RIGHTS OR THE UNITED STATES DEPARTMENT OF JUSTICE,
12 THE DEPARTMENT MAY:

13 (a) DISMISS THE COMPLAINT IF THE INDIVIDUAL FILED THE
14 COMPLAINT WITH THE UNITED STATES DEPARTMENT OF EDUCATION
15 OFFICE OF CIVIL RIGHTS BEFORE FILING THE COMPLAINT WITH THE
16 DEPARTMENT; OR

17 (b) NULLIFY, REVOKE, OR VOID ANY FINDINGS MADE OR REMEDIES
18 PRESCRIBED IF THE INDIVIDUAL FILED THE COMPLAINT WITH THE UNITED
19 STATES DEPARTMENT OF EDUCATION OFFICE OF CIVIL RIGHTS AFTER THE
20 RESOLUTION OF THE COMPLAINT WITH THE DEPARTMENT.

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

24 **22-29.5-117. Retaliation.**

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

27 (a) FOR THE PURPOSE OF INTERFERING WITH ANY RIGHT OR

1 PRIVILEGE SECURED BY THIS ARTICLE 29.5, THE IDEA, SECTION 504, THE
2 ADA, THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20
3 OF THIS TITLE 22, OR THE "PROTECTION OF STUDENTS FROM RESTRAINT
4 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22;

5 (b) BECAUSE AN INDIVIDUAL MAKES OR HAS MADE, OR BECAUSE
6 A LOCAL EDUCATION PROVIDER BELIEVES AN INDIVIDUAL HAS MADE OR
7 WILL MAKE, A COMPLAINT UNDER THIS ARTICLE 29.5, THE IDEA, THE
8 ADA, THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE 20
9 OF THIS TITLE 22, OR THE "PROTECTION OF STUDENTS FROM RESTRAINT
10 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22; OR

11 (c) BECAUSE AN INDIVIDUAL TESTIFIES, ASSISTS, OR PARTICIPATES
12 IN ANY MANNER IN AN INVESTIGATION OR PROCEEDING REGARDING AN
13 ALLEGATION OR COMPLAINT PURSUANT TO THIS ARTICLE 29.5, THE IDEA,
14 THE ADA, THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE
15 20 OF THIS TITLE 22, OR THE "PROTECTION OF STUDENTS FROM RESTRAINT
16 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22.

17 (2) ALLEGATIONS OF COERCION, INTIMIDATION, THREATS,
18 DISCRIMINATION, OR OTHER RETALIATION AS DESCRIBED IN THIS SECTION
19 AGAINST ANY INDIVIDUAL MAY BE FILED WITH THE DEPARTMENT, AND THE
20 DEPARTMENT SHALL PROCESS AND EVALUATE SUCH ALLEGATIONS
21 PURSUANT TO THIS ARTICLE 29.5.

22 **SECTION 2. Safety clause.** The general assembly finds,
23 determines, and declares that this act is necessary for the immediate
24 preservation of the public peace, health, or safety or for appropriations for
25 the support and maintenance of the departments of the state and state
26 institutions.