

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

REENGROSSED

*This Version Includes All Amendments
Adopted in the House of Introduction*

LLS NO. 26-0005.01 Jed Franklin x5484

SENATE BILL 26-125

SENATE SPONSORSHIP

Kolker and Marchman, Amabile, Ball, Benavidez, Coleman, Cutter, Danielson, Exum, Gonzales J., Hinrichsen, Jodeh, Kipp, Lindstedt, Mullica, Roberts, Rodriguez, Snyder, Sullivan, Weissman

HOUSE SPONSORSHIP

Bacon and Phillips,

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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.

SENATE
3rd Reading Unamended
May 7, 2026

SENATE
Amended 2nd Reading
May 6, 2026

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 EDUCATION" MEANS THE PROVISION OF EDUCATIONAL
8 AND RELATED SERVICES WITHOUT COST TO A QUALIFIED STUDENT WITH A
9 DISABILITY OR TO THE STUDENT'S PARENT OR GUARDIAN, EXCEPT FOR THE
10 FEES THAT ARE IMPOSED ON STUDENTS WITHOUT A DISABILITY OR THEIR
11 PARENT OR GUARDIAN. A FREE EDUCATION MAY CONSIST OF EITHER THE
12 PROVISION OF FREE SERVICES THROUGH A PROGRAM OPERATED BY A
13 LOCAL EDUCATION PROVIDER OR THE LOCAL EDUCATION PROVIDER
14 PLACING A STUDENT WITH A DISABILITY OR REFERRING THE STUDENT FOR
15 AID, BENEFITS, OR SERVICES NOT OPERATED OR PROVIDED BY THE LOCAL
16 EDUCATION PROVIDER AS ITS MEANS OF CARRYING OUT THE
17 REQUIREMENTS OF THIS ARTICLE 29.5 FOR PAYMENT OF THE COSTS OF THE
18 AID, BENEFITS, OR SERVICES. FUNDS AVAILABLE FROM ANY PUBLIC OR
19 PRIVATE AGENCY MAY BE USED TO MEET THE REQUIREMENTS OF THIS
20 ARTICLE 29.5. NOTHING IN THIS SECTION SHALL BE CONSTRUCTED TO
21 RELIEVE AN INSURER OR SIMILAR THIRD PARTY FROM AN OTHERWISE VALID
22 OBLIGATION TO PROVIDE OR PAY FOR SERVICES TO A QUALIFIED STUDENT
23 WITH A DISABILITY.

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

26 (9) "INDIVIDUALS WITH DISABILITIES EDUCATION ACT" OR
27 "IDEA" MEANS THE FEDERAL "INDIVIDUALS WITH DISABILITIES

1 EDUCATION ACT", 20 U.S.C. SEC. 1400 ET SEQ.

2 (10) "LOCAL EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT,
3 A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO
4 PART 1 OF ARTICLE 30.5 OF THIS TITLE 22, A CHARTER SCHOOL
5 AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
6 PART 5 OF ARTICLE 30.5 OF THIS TITLE 22, THE STATE CHARTER SCHOOL
7 INSTITUTE ESTABLISHED IN SECTION 22-30.5-503, A STATE-OPERATED
8 PROGRAM, AS DEFINED IN SECTION 22-20-103, OR A BOARD OF
9 COOPERATIVE SERVICES CREATED AND OPERATING PURSUANT TO ARTICLE
10 5 OF THIS TITLE 22 THAT OPERATES ONE OR MORE PUBLIC SCHOOLS,
11 EXCEPT THAT, FOR MATTERS INVOLVING THE PROVISION OF A FREE
12 EDUCATION TO A QUALIFIED STUDENT WITH A DISABILITY, "LOCAL
13 EDUCATION PROVIDER" HAS THE SAME MEANING AS "ADMINISTRATIVE
14 UNIT" AS DEFINED IN SECTION 22-20-103 (1) FOR THE PURPOSES OF THIS
15 ARTICLE 29.5.

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

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

20 (13) "SECTION 504" MEANS SECTION 504 OF THE FEDERAL
21 "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 794 ET SEQ.

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

25 **22-29.5-103. Discrimination prohibited.**

26 (1) NO QUALIFIED STUDENT WITH A DISABILITY SHALL, ON THE
27 BASIS OF DISABILITY, BE EXCLUDED FROM PARTICIPATION IN, DENIED THE

1 BENEFITS OF, OR OTHERWISE SUBJECTED TO DISCRIMINATION UNDER ANY
2 PROGRAM, SERVICE, OR ACTIVITY BY A LOCAL EDUCATION PROVIDER.

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

6 (a) DENY A QUALIFIED STUDENT WITH A DISABILITY THE
7 OPPORTUNITY TO PARTICIPATE IN OR BENEFIT FROM THE AID, BENEFIT, OR
8 SERVICE;

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

12 (c) PROVIDE A QUALIFIED STUDENT WITH A DISABILITY WITH AN
13 AID, BENEFIT, OR SERVICE THAT IS NOT AS EFFECTIVE AS THAT PROVIDED
14 TO OTHERS;

15 (d) PROVIDE DIFFERENT OR SEPARATE AID, BENEFITS, OR
16 SERVICES TO A QUALIFIED STUDENT WITH A DISABILITY OR TO ANY CLASS
17 OF QUALIFIED STUDENTS WITH A DISABILITY UNLESS SUCH ACTION IS
18 NECESSARY TO PROVIDE A QUALIFIED STUDENT WITH A DISABILITY WITH
19 AID, BENEFITS, OR SERVICES THAT ARE AS EFFECTIVE AS THOSE PROVIDED
20 TO OTHERS;

21 (e) AID OR PERPETUATE DISCRIMINATION AGAINST A QUALIFIED
22 STUDENT WITH A DISABILITY BY PROVIDING SIGNIFICANT ASSISTANCE TO
23 AN AGENCY, ORGANIZATION, OR PERSON THAT DISCRIMINATES ON THE
24 BASIS OF DISABILITY IN PROVIDING ANY AID, BENEFIT, OR SERVICE TO
25 BENEFICIARIES OF THE LOCAL EDUCATION PROVIDER'S EDUCATIONAL
26 PROGRAM OR ACTIVITY; OR

27 (f) OTHERWISE LIMIT A QUALIFIED STUDENT WITH A DISABILITY IN

1 THE ENJOYMENT OF ANY RIGHT, PRIVILEGE, ADVANTAGE, OR OPPORTUNITY
2 ENJOYED BY OTHERS RECEIVING AN EDUCATIONAL AID, BENEFIT, OR
3 SERVICE.

4 (3) FOR PURPOSES OF THIS ARTICLE 29.5, AN AID, BENEFIT, OR
5 SERVICE, TO BE EQUALLY EFFECTIVE, IS NOT REQUIRED TO PRODUCE THE
6 IDENTICAL RESULT OR LEVEL OF ACHIEVEMENT FOR QUALIFIED STUDENTS
7 WITH A DISABILITY AND STUDENTS WITHOUT A DISABILITY, BUT MUST
8 AFFORD A QUALIFIED STUDENT WITH A DISABILITY EQUAL OPPORTUNITY
9 TO OBTAIN THE SAME RESULT, TO GAIN THE SAME BENEFIT, OR TO REACH
10 THE SAME LEVEL OF ACHIEVEMENT IN THE MOST INTEGRATED SETTING
11 APPROPRIATE TO THE STUDENT'S NEEDS.

12 (4) DESPITE THE EXISTENCE OF SEPARATE OR DIFFERENT AIDS,
13 BENEFITS, OR SERVICES PROVIDED IN ACCORDANCE WITH THIS TITLE 22, A
14 LOCAL EDUCATION PROVIDER MAY NOT DENY A QUALIFIED STUDENT WITH
15 A DISABILITY THE OPPORTUNITY TO PARTICIPATE IN SUCH AIDS, BENEFITS,
16 OR SERVICES THAT ARE NOT SEPARATE OR DIFFERENT.

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

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

22 (b) HAVE THE PURPOSE OR EFFECT OF DEFEATING OR
23 SUBSTANTIALLY IMPAIRING THE ACCOMPLISHMENT OF THE OBJECTIVES OF
24 THE LOCAL EDUCATION PROVIDER'S PROGRAM OR ACTIVITY WITH RESPECT
25 TO A QUALIFIED STUDENT WITH A DISABILITY; OR

26 (c) PERPETUATE THE DISCRIMINATION OF ANOTHER LOCAL
27 EDUCATION PROVIDER IF BOTH LOCAL EDUCATION PROVIDERS ARE

1 SUBJECT TO COMMON ADMINISTRATIVE CONTROL OR ARE AGENCIES OF THE
2 STATE.

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

5 (a) HAVE THE EFFECT OF EXCLUDING A QUALIFIED STUDENT WITH
6 A DISABILITY FROM A FACILITY OR DENYING A QUALIFIED STUDENT WITH
7 A DISABILITY THE BENEFITS OF A FACILITY, OR OTHERWISE SUBJECTING A
8 QUALIFIED STUDENT WITH A DISABILITY TO DISCRIMINATION; OR

9 (b) HAVE THE PURPOSE OR EFFECT OF DEFEATING OR
10 SUBSTANTIALLY IMPAIRING THE ACCOMPLISHMENT OF THE OBJECTIVES OF
11 THE PROGRAM OR ACTIVITY WITH RESPECT TO A QUALIFIED STUDENT WITH
12 A DISABILITY.

13 (7) A LOCAL EDUCATION PROVIDER SHALL CONDUCT EVALUATIONS
14 AND REEVALUATIONS OF A STUDENT IN THE STUDENT'S PRIMARY
15 LANGUAGE. A LOCAL EDUCATION PROVIDER SHALL COMMUNICATE WITH
16 A PARENT WITH LIMITED ENGLISH PROFICIENCY IN A MANNER THAT
17 PROVIDES THE PARENT WITH MEANINGFUL ACCESS TO INFORMATION THAT
18 IS PROVIDED TO OTHER PARENTS, INCLUDING INFORMATION ABOUT
19 PROGRAMS, SERVICES, AND ACTIVITIES.

20 **22-29.5-104. Grievance process - coordinator - training.**

21 (1) A LOCAL EDUCATION PROVIDER SHALL:

22 (a) ADOPT A GRIEVANCE PROCESS THAT INCORPORATES
23 APPROPRIATE DUE PROCESS STANDARDS AND PROVIDES FOR THE PROMPT
24 AND EQUITABLE RESOLUTION OF COMPLAINTS ALLEGING ANY ACTION
25 PROHIBITED BY SECTION 504, WHICH MAY BE SATISFIED BY ADOPTING A
26 SECTION 504 GRIEVANCE PROCESS THAT FULFILLS THE REQUIREMENTS OF
27 34 CFR 104.7. THE LOCAL EDUCATION PROVIDER IS NOT REQUIRED TO

1 APPLY ITS GRIEVANCE PROCEDURE TO ALLEGATIONS RELATED TO THE
2 IDENTIFICATION, EVALUATION, PLACEMENT, OR PROVISION OF FREE
3 EDUCATION PURSUANT TO AN IEP.

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

8 (I) THE RESPONSIBLE EMPLOYEE MUST RECEIVE TRAINING ABOUT
9 HOW TO COMPLY WITH THE REQUIREMENTS OF THIS ARTICLE 29.5,
10 INCLUDING CREATING INCLUSIVE AND RESPECTFUL ENVIRONMENTS FOR
11 STUDENTS WITH DISABILITIES, DISABILITY RIGHTS, AND THE DISABILITY
12 RIGHTS GRIEVANCE PROCESS WITHIN SIXTY DAYS OF BEING DESIGNATED;

13 (II) IN ADDITION TO OVERSEEING COMPLIANCE WITH THIS ARTICLE
14 29.5 AND SERVING AS A POINT OF CONTACT FOR STUDENTS, PARENTS, AND
15 THIRD PARTIES WHO HAVE QUESTIONS OR CONCERNS ABOUT THE
16 REQUIREMENTS OF THIS ARTICLE 29.5, THE RESPONSIBLE EMPLOYEE MAY
17 ALSO SERVE AS THE RESPONSIBLE EMPLOYEE REQUIRED BY 34 CFR 104.7
18 (a); AND

19 (III) A LOCAL EDUCATION PROVIDER SHALL PROVIDE THE
20 RESPONSIBLE EMPLOYEE WITH THE NECESSARY TIME, RESOURCES, AND
21 AUTHORITY TO FULFILL THE OBLIGATIONS SET FORTH IN THIS ARTICLE
22 29.5;

23 (c) PROVIDE INITIAL AND CONTINUING NOTIFICATION TO STUDENTS
24 AND PARENTS THAT THE LOCAL EDUCATION PROVIDER MUST NOT
25 DISCRIMINATE ON THE BASIS OF DISABILITY. THE NOTIFICATION SHALL
26 INCLUDE THE NAME, TITLE, PHONE NUMBER, AND EMAIL ADDRESS OF THE
27 RESPONSIBLE EMPLOYEE DESIGNATED PURSUANT TO SUBSECTION (1)(b) OF

1 THIS SECTION. A LOCAL EDUCATION PROVIDER SHALL PROVIDE THE INITIAL
2 NOTIFICATION REQUIRED BY THIS SUBSECTION (1)(c) ON OR BEFORE APRIL
3 1, 2027. METHODS OF INITIAL AND CONTINUING NOTIFICATION INCLUDE
4 THE PUBLIC POSTING OF HARD-COPY NOTICES IN SCHOOLS AND IN THE
5 CENTRAL OFFICE BUILDING OF A SCHOOL; INCLUSION IN STUDENT AND
6 EMPLOYEE HANDBOOKS; INCLUSION IN NEWSLETTERS, MASS EMAILS, AND
7 INFORMATION SENT HOME TO PARENTS; PLACEMENT OF NOTICES IN THE
8 LOCAL EDUCATION PROVIDER'S PUBLICATIONS AND ONLINE MATERIALS,
9 INCLUDING THE LOCAL EDUCATION PROVIDER'S WEBSITE AND SOCIAL
10 MEDIA; OR DISTRIBUTION OF MEMORANDA OR OTHER WRITTEN
11 COMMUNICATIONS. THIS NOTICE REQUIREMENT MAY BE MET IN
12 CONJUNCTION WITH ANY NOTICE REQUIRED BY 34 CFR 104.8, OR 28 CFR
13 35.106.

14 (d) TRAIN RELEVANT STAFF ANNUALLY ABOUT THE ESSENTIAL
15 REQUIREMENTS OF THIS ARTICLE 29.5. FOR PURPOSES OF THIS SECTION,
16 "RELEVANT STAFF" INCLUDES THE EMPLOYEE DESIGNATED PURSUANT TO
17 THIS SECTION, AT LEAST ONE ADMINISTRATOR FROM EACH EDUCATIONAL
18 BUILDING ON THE LOCAL EDUCATION PROVIDER'S PREMISES, AND AT LEAST
19 ONE OTHER STAFF REGULARLY INVOLVED WITH DEVELOPING,
20 IMPLEMENTING, AND COORDINATING PLANS IN ACCORDANCE WITH THIS
21 ARTICLE 29.5. IF A LOCAL EDUCATION PROVIDER HAS A BUILDING-SPECIFIC
22 COORDINATOR RESPONSIBLE FOR COMPLIANCE WITH SECTION 504 AND
23 THIS ARTICLE 29.5, THAT INDIVIDUAL MAY ATTEND THE TRAINING INSTEAD
24 OF A BUILDING ADMINISTRATOR.

25 **22-29.5-105. Reasonable accommodations.**

26 (1) EXCEPT AS PROVIDED IN SUBSECTION (2) OF THIS SECTION, A
27 LOCAL EDUCATION PROVIDER SHALL MAKE A REASONABLE

1 ACCOMMODATION TO A POLICY, PRACTICE, OR PROCEDURE WHEN THE
2 ACCOMMODATION IS NECESSARY TO AVOID DISCRIMINATING AGAINST A
3 QUALIFIED STUDENT WITH A DISABILITY ON THE BASIS OF DISABILITY,
4 UNLESS THE LOCAL EDUCATION PROVIDER CAN DEMONSTRATE THAT
5 MAKING THE REASONABLE ACCOMMODATION WOULD FUNDAMENTALLY
6 ALTER THE NATURE OF THE SERVICE, PROGRAM, OR ACTIVITY COVERED BY
7 THE POLICY, PRACTICE, OR PROCEDURE, OR CAUSE AN UNDUE FINANCIAL
8 OR ADMINISTRATIVE BURDEN ON THE LOCAL EDUCATION PROVIDER.

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

13 (3) A LOCAL EDUCATION PROVIDER SHALL PROVIDE REASONABLE
14 ACCOMMODATIONS TO A PARENT WITH A DISABILITY, INCLUDING A
15 COMMUNICATION-RELATED DISABILITY, WHO IS SEEKING APPROPRIATE
16 ACCESS TO PROGRAMS OR ACTIVITIES FOR PARENTS IN RELATION TO THAT
17 PARENT'S CHILD. COMMUNICATION-RELATED DISABILITY
18 ACCOMMODATIONS MUST BE CONSISTENT WITH THE STANDARDS STATED
19 IN SECTION 22-29.5-106.

20 (4) A LOCAL EDUCATION PROVIDER MUST PROVIDE
21 INTERPRETATION AND TRANSLATION SERVICES FOR COMMUNICATION WITH
22 A PARENT WITH LIMITED ENGLISH PROFICIENCY.

23 **22-29.5-106. Effective communication.**

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

27 (2) A LOCAL EDUCATION PROVIDER SHALL FURNISH APPROPRIATE

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

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

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

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

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

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

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

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

27 (I) IN AN EMERGENCY INVOLVING AN IMMINENT THREAT TO THE

1 SAFETY OR WELFARE OF AN INDIVIDUAL OR THE PUBLIC AND NO
2 INTERPRETER IS AVAILABLE; OR

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

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

13 **22-29.5-107. Physical accessibility - definition.**

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

25 **22-29.5-108. Free and appropriate public education.**

26 (1) (a) A LOCAL EDUCATION PROVIDER SHALL PROVIDE A FREE AND
27 APPROPRIATE PUBLIC EDUCATION TO EACH QUALIFIED STUDENT WITH A

1 DISABILITY WHO IS IN THE LOCAL EDUCATION PROVIDER'S JURISDICTION,
2 REGARDLESS OF THE NATURE OR SEVERITY OF THE STUDENT'S DISABILITY.

3 (b) IMPLEMENTATION OF AN IEP DEVELOPED IN ACCORDANCE
4 WITH THE IDEA IS ONE WAY OF MEETING THE INDIVIDUAL EDUCATIONAL
5 NEEDS OF A STUDENT WITH A DISABILITY AS ADEQUATELY AS THE NEEDS
6 OF A STUDENT WITHOUT A DISABILITY ARE MET.

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

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

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

1 PARENT IF THE STUDENT RECEIVED THE AIDS, BENEFITS, OR SERVICES FROM
2 THE REFERRING LOCAL EDUCATION PROVIDER.

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

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

16 **22-29.5-109. Least restrictive environment - academic settings**
17 **- nonacademic settings - comparable facilities.**

18 (1) A LOCAL EDUCATION PROVIDER SHALL PROVIDE A FREE AND
19 APPROPRIATE PUBLIC EDUCATION TO EACH QUALIFIED STUDENT WITH A
20 DISABILITY WITHIN ITS JURISDICTION WITH STUDENTS WITHOUT
21 DISABILITIES TO THE MAXIMUM EXTENT APPROPRIATE BASED ON THE
22 NEEDS OF THE QUALIFIED STUDENT WITH A DISABILITY. A LOCAL
23 EDUCATION PROVIDER SHALL PLACE A QUALIFIED STUDENT WITH A
24 DISABILITY IN THE REGULAR EDUCATIONAL ENVIRONMENT OPERATED BY
25 THE LOCAL EDUCATION PROVIDER UNLESS IT IS DEMONSTRATED THAT THE
26 EDUCATION OF THE STUDENT IN THAT ENVIRONMENT CANNOT BE
27 ACHIEVED SATISFACTORILY, EVEN WITH THE USE OF SUPPLEMENTARY AIDS

1 AND SERVICES. WHENEVER A LOCAL EDUCATION PROVIDER PLACES A
2 STUDENT IN A SETTING OTHER THAN THE REGULAR EDUCATIONAL
3 ENVIRONMENT PURSUANT TO THIS SUBSECTION (1), IT SHALL CONSIDER
4 THE PROXIMITY OF THE ALTERNATE SETTING TO THE STUDENT'S HOME.

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

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

18 **22-29.5-110. Nonacademic and extracurricular services and**
19 **activities - counseling services - physical education - athletics.**

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

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

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

15 **22-29.5-111. Evaluation - consent - procedure - reevaluation.**

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

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

27 (3) IF A STUDENT'S PARENT CONSENTS TO AN EVALUATION

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

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

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

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

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

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

27 (a) DRAW UPON INFORMATION FROM A VARIETY OF SOURCES,

1 INCLUDING APTITUDE AND ACHIEVEMENT TESTS, TEACHER
2 RECOMMENDATIONS, PHYSICAL CONDITION, SOCIAL OR CULTURAL
3 BACKGROUND, AND ADAPTIVE BEHAVIOR;

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

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

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

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

17 (7) A LOCAL EDUCATION PROVIDER MAY SATISFY THE EVALUATION
18 REQUIREMENTS IF:

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

21 (b) A GROUP OF KNOWLEDGEABLE PEOPLE, BASED ON EXISTING
22 EVALUATION DATA, DETERMINE THE STUDENT'S ELIGIBILITY AND
23 PLACEMENT, INCLUDING THE SERVICES AND ACCOMMODATIONS THE
24 STUDENT NEEDS, AND THE LOCAL EDUCATION PROVIDER AND PARENT
25 AGREE.

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 MAY 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. THIS ARTICLE 29.5 DOES NOT
19 CREATE NEW AUTHORITY FOR MATTERS INVOLVING THE IDENTIFICATION,
20 EVALUATION, PLACEMENT, OR PROVISION OF A FREE EDUCATION
21 PURSUANT TO AN IEP.

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

27 (4) THE COLORADO CIVIL RIGHTS DIVISION SHALL NOT HAVE

1 JURISDICTION OVER ALLEGATIONS OR COMPLAINTS THAT FALL WITHIN THE
2 SCOPE OF THIS ARTICLE 29.5. THE COLORADO CIVIL RIGHTS DIVISION
3 SHALL ESTABLISH A SYSTEM TO ENSURE SUCH ALLEGATIONS OR
4 COMPLAINTS ARE REFERRED TO THE DEPARTMENT WITHIN TEN DAYS OF
5 RECEIVING AN ALLEGATION OR COMPLAINT.

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

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

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

27 (b) BASED ON ALL OF THE FACTS PROVIDED BY THE COMPLAINANT,

1 THE DEPARTMENT CANNOT REASONABLY CONCLUDE THE LOCAL
2 EDUCATION PROVIDER HAS VIOLATED THIS ARTICLE 29.5;

3 (c) THE ALLEGATION OR COMPLAINT IS NOT TIMELY FILED WITH
4 THE DEPARTMENT;

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

7 (e) THE DEATH OF THE COMPLAINANT MAKES IT IMPOSSIBLE TO
8 FULLY INVESTIGATE THE ALLEGATION;

9 (f) THE DEATH OF THE COMPLAINANT FORECLOSES THE POSSIBILITY
10 OF INDIVIDUAL RELIEF;

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

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

26 (i) THE SAME OR SIMILAR ALLEGATION OR COMPLAINT, BASED ON
27 THE SAME FACTS, HAS ALREADY BEEN FILED IN STATE OR FEDERAL COURT.

1 IF THE COURT CASE ENDS WITHOUT A DECISION ON THE MERITS OR A
2 SETTLEMENT, THE COMPLAINT MAY BE FILED OR REFILED WITH THE
3 DEPARTMENT WITHIN SIXTY DAYS OF THE END OF THE COURT CASE. FOR
4 PURPOSES OF THIS SECTION, A DISMISSAL WITH PREJUDICE IS CONSIDERED
5 A DECISION ON THE MERITS AND A DISMISSAL WITHOUT PREJUDICE IS NOT
6 A DECISION ON THE MERITS.

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

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

15 (l) THE DEPARTMENT RECENTLY INVESTIGATED OR IS CURRENTLY
16 INVESTIGATING THE SAME OR SIMILAR ALLEGATION BASED ON THE SAME
17 FACTS INVOLVING THE SAME LOCAL EDUCATION PROVIDER;

18 (m) THE COMPLAINANT WITHDRAWS THE COMPLAINT CONTAINING
19 THE ALLEGATION; OR

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

21 (6) (a) THE DEPARTMENT MAY DISMISS AN ALLEGATION OR
22 COMPLAINT IF:

23 (I) THE DEPARTMENT'S ABILITY TO COMPLETE AN INVESTIGATION
24 IS SUBSTANTIALLY IMPAIRED BY THE COMPLAINANT'S REFUSAL TO PROVIDE
25 INFORMATION THAT IS REASONABLY ACCESSIBLE TO THE COMPLAINANT
26 AND IS NECESSARY FOR INVESTIGATION OF THE COMPLAINT. THE
27 DEPARTMENT SHALL INCLUDE DOCUMENTATION IN THE CASE FILE OF ITS

1 EFFORTS TO CONTACT THE COMPLAINANT BY PHONE, IN WRITING, OR VIA
2 EMAIL TO REQUEST THE NECESSARY INFORMATION AND OF THE
3 COMPLAINANT'S REFUSAL TO PROVIDE THE INFORMATION.

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

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

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

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

24 (8) NO LATER THAN DECEMBER 31, 2026, THE STATE BOARD OF
25 EDUCATION MAY ADOPT RULES TO ESTABLISH THE DEFINITION OF ANY
26 TERM NOT SPECIFICALLY DEFINED IN THIS ARTICLE 29.5; UNIFORM AND
27 TIMELY METHODS OF COMPLAINT RESOLUTION, INCLUDING RULES

1 PROVIDING FOR THE PROCESS OF FILING A COMPLAINT, WHETHER
2 VOLUNTARY MEDIATION IS AVAILABLE, OR ANY OTHER RELIEF AVAILABLE
3 PRIOR TO THE CONCLUSION OF A FINDING OF NONCOMPLIANCE; AND
4 WHETHER WRITTEN CONSENT TO INVESTIGATE AN ALLEGATION IS
5 REQUIRED. COMPLAINTS MAY BE FILED BY A PARENT, GUARDIAN,
6 STUDENT, _____ OR THIRD PARTY. A THIRD PARTY MAY ONLY FILE A
7 COMPLAINT ALLEGING VIOLATIONS OF THIS ARTICLE 29.5 IF THE
8 ALLEGATIONS ARE SYSTEMIC IN NATURE OR IF THE COMPLAINT IS ON
9 BEHALF OF AN INDIVIDUAL STUDENT THE THIRD PARTY IS REPRESENTING
10 AS AN ATTORNEY OR ADVOCATE. FOR THE COMPLAINT PROCESS, THE
11 TIMELINE SHALL BE NO LONGER THAN ONE HUNDRED EIGHTY DAYS FROM
12 THE DATE OF FILING TO THE DATE OF RESOLUTION, WITH THE ABILITY TO
13 PAUSE THE TIMELINE FOR UP TO SIXTY DAYS PENDING ATTEMPTED
14 RESOLUTION THROUGH OTHER METHODS, INCLUDING VOLUNTARY
15 MEDIATION.

16 (9) (a) IF THE DEPARTMENT IS ACCEPTING COMPLAINTS, A PARENT,
17 GUARDIAN, STUDENT, OR THIRD PARTY MAY FILE A COMPLAINT WITH THE
18 DEPARTMENT ALLEGING A VIOLATION OF THIS ARTICLE 29.5 ONLY AFTER:

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

22 (II) (A) THE LOCAL EDUCATION PROVIDER ISSUES A FINAL
23 DECISION; OR

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

27 (b) (I) THE REQUIREMENTS OF SUBSECTION (9)(a) OF THIS SECTION

1 MAY BE WAIVED BY THE DEPARTMENT IF:

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

5 (B) THE LOCAL EDUCATION PROVIDER DOES NOT HAVE A PROMPT
6 AND EQUITABLE OR READILY AVAILABLE DISABILITY RIGHTS GRIEVANCE
7 PROCESS.

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

12 (A) THE LOCAL EDUCATION PROVIDER LACKS THE AUTHORITY TO
13 GRANT THE RELIEF SOUGHT;

14 (B) THE LOCAL EDUCATION PROVIDER'S PROCESS IS BIASED OR
15 UNFAIR, AND THUS UNLIKELY TO RESULT IN A FAIR OUTCOME; HOWEVER,
16 THE COMPLAINT RECIPIENT AND THE ALLEGED DISCRIMINATORY ENTITY
17 BOTH BEING THE LOCAL EDUCATION PROVIDER, ALONE, IS INSUFFICIENT TO
18 DEMONSTRATE BIAS OR UNFAIRNESS;

19 (C) THERE IS A PATTERN OF THE LOCAL EDUCATION PROVIDER
20 FAILING TO RESPOND IN A TIMELY OR APPROPRIATE MANNER TO
21 COMPLAINTS; OR

22 (D) THE LOCAL EDUCATION PROVIDER HAS CLEARLY
23 DEMONSTRATED UNWILLINGNESS TO COMPLY WITH OR PARTICIPATE IN THE
24 PROCESS IN GOOD FAITH.

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

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

4 **22-29.5-114.5. Effective date - repeal of part - gifts, grants, and**
5 **donations.**

6 (1) THE DEPARTMENT MAY SEEK FUNDING FROM GIFTS, GRANTS,
7 AND DONATIONS TO SUPPORT THE EXECUTION OF THE PROVISIONS OF
8 SECTION 22-29.5-114. THE DEPARTMENT MAY CONTRACT WITH THIRD
9 PARTIES TO SUPPORT THE EXECUTION OF THE PROVISIONS OF SECTION
10 22-29.5-114.

11 (2) (a) SECTION 22-29.5-114 WILL TAKE EFFECT IF THE
12 DEPARTMENT RECEIVES SUFFICIENT FUNDING TO SUPPORT THE EXECUTION
13 OF THE PROVISIONS OF SECTION 22-29.5-114. THE COMMISSIONER OF THE
14 DEPARTMENT SHALL NOTIFY THE REVISOR OF STATUTES IN WRITING OF THE
15 DATE WHEN THE CONDITION SPECIFIED IN THIS SUBSECTION (2)(a) HAS
16 OCCURRED BY EMAILING THE NOTICE TO
17 REVISOROFSTATUTES.GA@COLEG.GOV. SECTION 22-29.5-114 TAKES
18 EFFECT UPON THE DATE IDENTIFIED IN THE NOTICE THAT THE CONDITION
19 SPECIFIED IN THIS SUBSECTION (2)(a) HAS OCCURRED OR, IF THE NOTICE
20 DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE NOTICE TO THE
21 REVISOR OF STATUTES.

22 (b) SECTIONS 22-29.5-114 AND THIS SECTION ARE REPEALED,
23 EFFECTIVE JULY 1, 2028, IF THE COMMISSIONER OF THE DEPARTMENT OF
24 EDUCATION HAS NOT NOTIFIED THE REVISOR OF STATUTES THAT THE
25 CONDITION SPECIFIED IN SUBSECTION (2)(a) HAS OCCURRED BY JUNE 30,
26 2028.

27 **22-29.5-115. Remedies.**

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

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

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

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

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

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

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

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

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

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

1 (4) (a) THE STATE BOARD OF EDUCATION MAY WITHHOLD STATE
2 FUNDS FROM A LOCAL EDUCATION PROVIDER IF THE STATE BOARD OF
3 EDUCATION DETERMINES THAT THE LOCAL EDUCATION PROVIDER HAS
4 INTENTIONALLY VIOLATED THIS ARTICLE 29.5 AND DEMONSTRATED AN
5 UNWILLINGNESS TO ENTER INTO A CORRECTIVE ACTION PLAN TO ADDRESS
6 THE VIOLATION. PRIOR TO INITIATING THE PROCESS TO WITHHOLD FUNDS,
7 THE STATE BOARD MUST PROVIDE WRITTEN NOTICE TO THE LOCAL
8 EDUCATION PROVIDER OF THE VIOLATIONS OF THIS ARTICLE 29.5 AND THE
9 CORRECTIVE ACTION REQUIRED. THE LOCAL EDUCATION PROVIDER MUST
10 BE GIVEN SIXTY DAYS TO RESPOND TO THE NOTICE. A LOCAL EDUCATION
11 PROVIDER MAY APPEAL A STATE BOARD DECISION TO WITHHOLD STATE
12 FUNDS TO THE OFFICE OF ADMINISTRATIVE COURTS. THE STATE BOARD HAS
13 THE BURDEN OF PROOF, BY A PREPONDERANCE OF THE EVIDENCE, TO
14 ESTABLISH THE BASIS OF THE DECISION BEING APPEALED.

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

18 **22-29.5-116. Claim preclusion.**

19 (1) IF AN INDIVIDUAL FILES A COMPLAINT WITH THE DEPARTMENT
20 AND FILES A SUBSTANTIALLY SIMILAR COMPLAINT BASED ON THE SAME
21 ALLEGED FACTS WITH THE UNITED STATES DEPARTMENT OF EDUCATION
22 OFFICE OF CIVIL RIGHTS OR THE UNITED STATES DEPARTMENT OF JUSTICE,
23 THE DEPARTMENT MAY:

24 (a) DISMISS THE COMPLAINT IF THE INDIVIDUAL FILED THE
25 COMPLAINT WITH THE UNITED STATES DEPARTMENT OF EDUCATION
26 OFFICE OF CIVIL RIGHTS BEFORE FILING THE COMPLAINT WITH THE
27 DEPARTMENT; OR

1 (b) NULLIFY, REVOKE, OR VOID ANY FINDINGS MADE OR REMEDIES
2 PRESCRIBED IF THE INDIVIDUAL FILED THE COMPLAINT WITH THE UNITED
3 STATES DEPARTMENT OF EDUCATION OFFICE OF CIVIL RIGHTS AFTER THE
4 RESOLUTION OF THE COMPLAINT WITH THE DEPARTMENT.

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

8 **22-29.5-117. Retaliation.**

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

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

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

22 (c) BECAUSE AN INDIVIDUAL TESTIFIES, ASSISTS, OR PARTICIPATES
23 IN ANY MANNER IN AN INVESTIGATION OR PROCEEDING REGARDING AN
24 ALLEGATION OR COMPLAINT PURSUANT TO THIS ARTICLE 29.5, THE IDEA,
25 THE ADA, THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT", ARTICLE
26 20 OF THIS TITLE 22, OR THE "PROTECTION OF STUDENTS FROM RESTRAINT
27 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22.

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

6 **SECTION 2. Safety clause.** The general assembly finds,
7 determines, and declares that this act is necessary for the immediate
8 preservation of the public peace, health, or safety or for appropriations for
9 the support and maintenance of the departments of the state and state
10 institutions.