

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

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

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**, Boesenecker, Camacho, Clifford, Duran, English, Goldstein, Jackson, Lieder, Lindsay, Lukens, Marshall, Nguyen, Rutinel, Valdez, Zokaia

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**Senate Committees**

Education  
Appropriations

**House Committees**

Judiciary  
Appropriations

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**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.*

HOUSE  
3rd Reading Unamended  
May 13, 2026

HOUSE  
Amended 2nd Reading  
May 12, 2026

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.

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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 AIDS, 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 AIDS, 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 OR DESIGNEE FROM EACH  
18 EDUCATIONAL BUILDING ON THE LOCAL EDUCATION PROVIDER'S PREMISES,  
19 AND AT LEAST ONE OTHER STAFF REGULARLY INVOLVED WITH  
20 DEVELOPING, IMPLEMENTING, AND COORDINATING PLANS IN ACCORDANCE  
21 WITH THIS ARTICLE 29.5. IF A LOCAL EDUCATION PROVIDER HAS A  
22 BUILDING-SPECIFIC COORDINATOR RESPONSIBLE FOR COMPLIANCE WITH  
23 SECTION 504 AND THIS ARTICLE 29.5, THAT INDIVIDUAL MAY ATTEND THE  
24 TRAINING INSTEAD 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 DONATIONS, AND OTHER AGREEMENTS FOR RESOURCES TO SUPPORT THE  
8 EXECUTION OF THE PROVISIONS OF SECTIONS 22-29.5-114 AND  
9 22-29.5-115. THE DEPARTMENT MAY CONTRACT WITH THIRD PARTIES AND  
10 OTHER STATE AGENCIES TO SUPPORT THE EXECUTION OF THE PROVISIONS  
11 OF SECTIONS 22-29.5-114 AND 22-29.5-115.

12 (2)(a) SECTIONS 22-29.5-114 AND 22-29.5-115 WILL TAKE EFFECT  
13 IF THE DEPARTMENT RECEIVES SUFFICIENT FUNDING OR RESOURCES TO  
14 SUPPORT THE EXECUTION OF THE PROVISIONS OF SECTIONS 22-29.5-114  
15 AND 22-29.5-115. THE COMMISSIONER OF THE DEPARTMENT SHALL NOTIFY  
16 THE REVISOR OF STATUTES IN WRITING OF THE DATE WHEN THE CONDITION  
17 SPECIFIED IN THIS SUBSECTION (2)(a) HAS OCCURRED BY EMAILING THE  
18 NOTICE TO REVISOR OF STATUTES.GA@COLEG.GOV. SECTIONS 22-29.5-114  
19 AND 22-29.5-115 TAKES EFFECT UPON THE DATE IDENTIFIED IN THE NOTICE  
20 THAT THE CONDITION SPECIFIED IN THIS SUBSECTION (2)(a) HAS OCCURRED  
21 OR, IF THE NOTICE DOES NOT SPECIFY THAT DATE, UPON THE DATE OF THE  
22 NOTICE TO THE REVISOR OF STATUTES.

23 (b) SECTIONS 22-29.5-114, 22-29.5-115, AND THIS SECTION ARE  
24 REPEALED, EFFECTIVE JULY 1, 2028, IF THE COMMISSIONER OF THE  
25 DEPARTMENT OF EDUCATION HAS NOT NOTIFIED THE REVISOR OF STATUTES  
26 THAT THE CONDITION SPECIFIED IN SUBSECTION (2)(a) HAS OCCURRED BY  
27 JUNE 30, 2028.

1                   **22-29.5-115. Remedies.**

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

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

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

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

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

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

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

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

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

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

1 CORRECTIVE ACTION PLAN THAT WOULD REMEDY THE VIOLATION.

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

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

19 **22-29.5-116. Claim preclusion.**

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

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

1 DEPARTMENT; OR

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

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

9 **22-29.5-117. Retaliation.**

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

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

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

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

1 AND SECLUSION ACT", ARTICLE 15.5 OF THIS TITLE 22.

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

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