

HOUSE COMMITTEE OF REFERENCE REPORT

Chair of Committee

Date

April 28, 2021

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

SB21-017 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

1 Amend reengrossed bill, strike everything below the enacting clause and
2 substitute:

3 "SECTION 1. In Colorado Revised Statutes, 22-30.5-110.5,
4 **amend** (2)(a)(II) and (7)(a); and **add** (7)(c) and (10) as follows:

5 **22-30.5-110.5. Background investigation - charter school**
6 **employees - information provided to department - definitions.** (2) The
7 background investigation of an applicant, at a minimum, must include:

8 (a) An inquiry by the charter school to the department to
9 determine whether the applicant:

10 (II) Has been dismissed by, or has resigned from, a school district
11 as a result of any allegation, including but not limited to unlawful sexual
12 behavior OR AN ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT
13 WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE
14 STUDENT CONSENTED TO THE SEXUAL ACT, that was supported by a
15 preponderance of the evidence according to information provided to the
16 department pursuant to section 22-32-109.7 (3) or subsection (7) of this
17 section and confirmed by the department pursuant to section 22-2-119
18 (1)(b);

19 (7) (a) If an employee of a charter school is dismissed or resigns
20 as a result of an allegation of unlawful behavior involving a child,
21 including unlawful sexual behavior, that is supported by a preponderance
22 of the evidence, the governing board of the charter school shall notify the
23 department and provide any information requested by the department
24 concerning the circumstances of the dismissal or resignation. The charter

1 school shall also notify the employee that information concerning the
2 employee's dismissal or resignation is being forwarded to the department.
3 ~~unless the notice would conflict with the confidentiality requirements of~~
4 ~~the "Child Protection Act of 1987", part 3 of article 3 of title 19, C.R.S.~~

5 (c) IF AN EMPLOYEE OF A CHARTER SCHOOL IS DISMISSED OR
6 RESIGNS AS A RESULT OF AN ALLEGATION OF A SEXUAL ACT INVOLVING A
7 STUDENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF
8 WHETHER THE STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS
9 SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THE GOVERNING
10 BOARD OF THE CHARTER SCHOOL SHALL NOTIFY THE DEPARTMENT AND
11 PROVIDE ANY INFORMATION REQUESTED BY THE DEPARTMENT
12 CONCERNING THE CIRCUMSTANCES OF THE DISMISSAL OR RESIGNATION.
13 THE CHARTER SCHOOL SHALL ALSO NOTIFY THE EMPLOYEE THAT
14 INFORMATION CONCERNING THE EMPLOYEE'S DISMISSAL OR RESIGNATION
15 IS BEING FORWARDED TO THE DEPARTMENT. A CHARTER SCHOOL SHALL
16 NOT ENTER INTO A SETTLEMENT AGREEMENT THAT WOULD RESTRICT THE
17 CHARTER SCHOOL FROM SHARING ANY RELEVANT INFORMATION RELATED
18 TO AN ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT WHO IS
19 EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE
20 STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS SUPPORTED BY A
21 PREPONDERANCE OF THE EVIDENCE PERTAINING TO THE EMPLOYEE WITH
22 THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR CHARTER SCHOOL
23 PERTAINING TO THE INCIDENT UPON WHICH THE DISMISSAL OR
24 RESIGNATION IS BASED. THIS SUBSECTION (7)(c) DOES NOT AUTHORIZE A
25 CHARTER SCHOOL TO ENTER INTO A SETTLEMENT AGREEMENT THAT
26 WOULD PROHIBIT THE CHARTER SCHOOL FROM SHARING ANY OTHER
27 INFORMATION REQUIRED BY LAW TO BE AVAILABLE TO THE DEPARTMENT,
28 ANOTHER SCHOOL DISTRICT, OR A CHARTER SCHOOL.

29 (10) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
30 OTHERWISE REQUIRES:

31 (a) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
32 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
33 18-3-401.

34 (b) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
35 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
36 STUDENT.

37 **SECTION 2.** In Colorado Revised Statutes, 22-32-109.7, **amend**
38 (1)(b) and (3); and **add** (5) as follows:

39 **22-32-109.7. Board of education - specific duties - employment**
40 **of personnel - definitions.** (1) Prior to the employment of any person by
41 a school district, the board of education shall make an inquiry concerning



1 such person to the department of education for the purpose of
2 determining:

3 (b) Whether such person has been dismissed by, or has resigned
4 from, a school district as a result of an allegation of unlawful behavior
5 involving a child, including unlawful sexual behavior OR AN ALLEGATION
6 OF A SEXUAL ACT INVOLVING A STUDENT WHO IS EIGHTEEN YEARS OF AGE
7 OR OLDER, REGARDLESS OF WHETHER THE STUDENT CONSENTED TO THE
8 SEXUAL ACT, which was supported by a preponderance of the evidence
9 according to information provided to the department by a school district
10 pursuant to subsection (3) of this section and confirmed by the department
11 pursuant to the provisions of section 22-2-119 (1)(b);

12 (3) (a) If an employee of a school district is dismissed or resigns
13 as a result of an allegation of unlawful behavior involving a child,
14 including unlawful sexual behavior, which is supported by a
15 preponderance of the evidence, within ten business days after the
16 dismissal or resignation, the board of education of the school district shall
17 notify the department of education and provide any information requested
18 by the department concerning the circumstances of the dismissal or
19 resignation. The district shall also notify the employee that information
20 concerning the employee's dismissal or resignation is being forwarded to
21 the department of education. ~~unless the notice would conflict with the~~
22 ~~confidentiality requirements of the "Child Protection Act of 1987", part~~
23 ~~3 of article 3 of title 19. C.R.S.~~ A public school district or charter school
24 shall not enter into a settlement agreement that would restrict the school
25 district or charter school from sharing any relevant information related to
26 a conviction for child abuse or a sexual offense against a child as defined
27 by section 13-80-103.9 (1)(c) ~~C.R.S.~~, pertaining to the employee with the
28 department, another school district, or charter school pertaining to the
29 incident upon which the dismissal or resignation is based. THIS
30 SUBSECTION (3)(a) DOES NOT AUTHORIZE A PUBLIC SCHOOL DISTRICT OR
31 CHARTER SCHOOL TO ENTER INTO A SETTLEMENT AGREEMENT THAT
32 WOULD PROHIBIT THE PUBLIC SCHOOL DISTRICT OR CHARTER SCHOOL
33 FROM SHARING ANY OTHER INFORMATION REQUIRED BY LAW TO BE
34 AVAILABLE TO THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR A
35 CHARTER SCHOOL.

36 (b) IF AN EMPLOYEE OF A SCHOOL DISTRICT IS DISMISSED OR
37 RESIGNS AS A RESULT OF AN ALLEGATION OF A SEXUAL ACT INVOLVING A
38 STUDENT WHO IS EIGHTEEN YEARS OF AGE OR OLDER, REGARDLESS OF
39 WHETHER THE STUDENT CONSENTED TO THE SEXUAL ACT, THAT IS
40 SUPPORTED BY A PREPONDERANCE OF THE EVIDENCE, THE SCHOOL
41 DISTRICT SHALL NOTIFY THE DEPARTMENT AND PROVIDE ANY



1 INFORMATION REQUESTED BY THE DEPARTMENT CONCERNING THE
2 CIRCUMSTANCES OF THE DISMISSAL OR RESIGNATION. THE SCHOOL
3 DISTRICT SHALL ALSO NOTIFY THE EMPLOYEE THAT INFORMATION
4 CONCERNING THE EMPLOYEE'S DISMISSAL OR RESIGNATION IS BEING
5 FORWARDED TO THE DEPARTMENT. A SCHOOL DISTRICT SHALL NOT ENTER
6 INTO A SETTLEMENT AGREEMENT THAT WOULD RESTRICT THE SCHOOL
7 DISTRICT FROM SHARING ANY RELEVANT INFORMATION RELATED TO AN
8 ALLEGATION OF A SEXUAL ACT INVOLVING A STUDENT WHO IS EIGHTEEN
9 YEARS OF AGE OR OLDER, REGARDLESS OF WHETHER THE STUDENT
10 CONSENTED TO THE SEXUAL ACT, THAT IS SUPPORTED BY A
11 PREPONDERANCE OF THE EVIDENCE PERTAINING TO THE EMPLOYEE WITH
12 THE DEPARTMENT, ANOTHER SCHOOL DISTRICT, OR CHARTER SCHOOL
13 PERTAINING TO THE INCIDENT UPON WHICH THE DISMISSAL OR
14 RESIGNATION IS BASED. THIS SUBSECTION (3)(b)(I) DOES NOT AUTHORIZE
15 A SCHOOL DISTRICT TO ENTER INTO A SETTLEMENT AGREEMENT THAT
16 WOULD PROHIBIT THE SCHOOL DISTRICT FROM SHARING ANY OTHER
17 INFORMATION REQUIRED BY LAW TO BE AVAILABLE TO THE DEPARTMENT,
18 ANOTHER SCHOOL DISTRICT, OR A CHARTER SCHOOL.

19 (5) FOR PURPOSES OF THIS SECTION, UNLESS THE CONTEXT
20 OTHERWISE REQUIRES:

21 (a) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
22 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
23 18-3-401.

24 (b) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
25 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
26 STUDENT.

27 **SECTION 3.** In Colorado Revised Statutes, 22-60.50-107,
28 **amend** (4) and (8) as follows:

29 **22-60.5-107. Grounds for denying, annulling, suspending, or**
30 **revoking license, certificate, endorsement, or authorization -**
31 **definitions.** (4) (a) The department of education may deny, annul,
32 suspend, or revoke any license, certificate, endorsement, or authorization
33 if the state board finds and determines that the applicant or holder thereof
34 is professionally incompetent or guilty of unethical behavior.

35 (b) THE STATE BOARD OF EDUCATION SHALL PROMULGATE
36 APPROPRIATE RULES DEFINING THE STANDARDS OF UNETHICAL BEHAVIOR
37 AND PROFESSIONAL INCOMPETENCY. UNETHICAL BEHAVIOR MUST INCLUDE
38 CONDUCT INVOLVING A SEXUAL ACT BETWEEN AN APPLICANT OR HOLDER
39 AND A STUDENT, INCLUDING A STUDENT WHO IS EIGHTEEN YEARS OF AGE
40 OR OLDER, REGARDLESS OF WHETHER THE STUDENT CONSENTED TO THE
41 SEXUAL ACT.



1 (c) FOR PURPOSES OF THIS SUBSECTION (4), UNLESS THE CONTEXT
2 OTHERWISE REQUIRES:

3 (I) "SEXUAL ACT" MEANS SEXUAL CONTACT, SEXUAL INTRUSION,
4 OR SEXUAL PENETRATION AS THOSE TERMS ARE DEFINED IN SECTION
5 18-3-401.

6 (II) "STUDENT" MEANS ANY PERSON ENROLLED AT THE SCHOOL
7 WHERE THE EMPLOYEE IS EMPLOYED, BUT DOES NOT INCLUDE ANOTHER
8 STUDENT.

9 (8) When an applicant's or holder's license is denied, annulled,
10 suspended, or revoked pursuant to ~~the provisions of~~ subsection (2.5), or
11 (2.6), OR (4) of this section, the department of education shall post the
12 name of the person and basis for the denial, annulment, suspension, or
13 revocation on its website.

14 **SECTION 4. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect September 15, 2021; except that,
16 if a referendum petition is filed pursuant to section 1 (3) of article V of
17 the state constitution against this act or an item, section, or part of this act
18 within the ninety-day period after final adjournment of the general
19 assembly, then the act, item, section, or part will not take effect unless
20 approved by the people at the general election to be held in November
21 2022 and, in such case, will take effect on the date of the official
22 declaration of the vote thereon by the governor.

23 (2) This act applies to offenses committed on or after the
24 applicable effective date of this act."

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