

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 23-0995.02 Conrad Imel x2313

SENATE BILL 23-296

SENATE SPONSORSHIP

Winter F. and Marchman,

HOUSE SPONSORSHIP

Bacon,

Senate Committees

Education
Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING PROTECTIONS FOR STUDENTS AGAINST DISCRIMINATORY**
102 **PRACTICES AT SCHOOL.**

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 requires that a report received by a public school that enrolls students in any of grades kindergarten through 12 (public school) that alleges harassment or discrimination is confidential. The bill requires a public school to:

- Accept reports of harassment or discrimination in writing or in-person; by phone, e-mail, or online form; or through

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.

- safe2tell;
- Post notices describing how a student can report harassment or discrimination to the school;
- Adopt procedures for investigating reports of harassment or discrimination;
- Retain harassment or discrimination case files for 7 years;
- Grant an excused absence to a student for certain out-of-school appointments related to the student experiencing harassment or discrimination; and
- Provide accommodations and supportive measures to a student experiencing harassment or discrimination.

The bill requires a public school to adopt a written policy (policy) that protects students experiencing harassment or discrimination. The policy must include the following:

- Information on reporting options for students, including contact information for the school staff member designated to receive reports;
- An explanation of the school's role in responding to reports of harassment or discrimination;
- Information about resources for victims of gender-based violence and sexual violence;
- Amnesty protections for a student who reports, or is a witness to a report of, harassment or discrimination for any school policy violation by the student related to the harassment or discrimination; and
- Information about available accommodations and supportive measures.

A public school shall make the policy available annually to students, students' parents and legal guardians, and school staff.

The bill requires a public school to annually provide training to school staff about harassment and discrimination, including training about the school's policy.

The bill requires public schools to report information about harassment or discrimination to school districts, who report that information to the department of education (department). An institute charter school reports the information directly to the department. The department reports the information to the sexual misconduct advisory committee in the department of higher education.

The bill waives immunity for a public entity for a failure to comply with any requirement concerning harassment or discrimination in public schools described in the bill.

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

1 **SECTION 1.** In Colorado Revised Statutes, **add 22-1-140** as
2 follows:

3 **22-1-140. Prohibit harassment or discrimination - policy**
4 **required - training and notification - definitions.** (1) AS USED IN THIS
5 SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

6 (a) "HARASSMENT OR DISCRIMINATION" MEANS TO SUBJECT AN
7 INDIVIDUAL TO UNWELCOME VERBAL, WRITTEN, OR PHYSICAL CONDUCT
8 THAT IS RELATED TO THE INDIVIDUAL'S ACTUAL OR PERCEIVED
9 MEMBERSHIP IN A PROTECTED CLASS BASED ON DISABILITY, RACE, CREED,
10 COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER
11 EXPRESSION, FAMILY COMPOSITION, RELIGION, AGE, NATIONAL ORIGIN, OR
12 ANCESTRY.

13 (b) "POLICY" MEANS THE POLICY ADOPTED BY A PUBLIC SCHOOL
14 AS REQUIRED IN SUBSECTION (3) OF THIS SECTION.

15 (c) "PUBLIC SCHOOL" MEANS AN ELEMENTARY SCHOOL, MIDDLE
16 SCHOOL, JUNIOR HIGH SCHOOL, HIGH SCHOOL, OR DISTRICT CHARTER
17 SCHOOL OF A SCHOOL DISTRICT THAT ENROLLS STUDENTS IN ANY OF
18 GRADES KINDERGARTEN THROUGH TWELVE OR AN INSTITUTE CHARTER
19 SCHOOL THAT ENROLLS STUDENTS IN ANY OF GRADES KINDERGARTEN
20 THROUGH TWELVE.

21 (d) "RESPONDENT" MEANS THE INDIVIDUAL WHO HAS BEEN
22 REPORTED TO BE THE PERPETRATOR OF ALLEGED HARASSMENT OR
23 DISCRIMINATION.

24 (e) "SAFE2TELL" MEANS THE SAFE2TELL PROGRAM CREATED IN
25 SECTION 24-31-606.

26 (f) "SCHOOL STAFF" MEANS ANY EMPLOYEE OF THE PUBLIC SCHOOL
27 OR SCHOOL DISTRICT OR CONTRACTOR WHO WORKS IN THE PUBLIC

1 SCHOOL, INCLUDING TEACHERS, TEACHER AIDES, BUS DRIVERS, CAFETERIA
2 WORKERS, CUSTODIAL STAFF, ADMINISTRATIVE AND CLERICAL STAFF,
3 SCHOOL MEDICAL STAFF, AND SECURITY STAFF.

4 (g) "TITLE IX" MEANS TITLE IX OF THE FEDERAL "EDUCATION
5 AMENDMENTS OF 1972", 20 U.S.C. SECS. 1681 ET SEQ., AS AMENDED.

6 (2) (a) A PUBLIC SCHOOL SHALL ACCEPT REPORTS OF HARASSMENT
7 OR DISCRIMINATION IN WRITING OR IN-PERSON; BY PHONE, E-MAIL, OR
8 ONLINE FORM.

9 (b) A REPORT OF HARASSMENT OR DISCRIMINATION RECEIVED BY
10 A PUBLIC SCHOOL IS CONFIDENTIAL AND SCHOOL STAFF SHALL KEEP
11 INFORMATION LEARNED DURING AN INVESTIGATION OF HARASSMENT OR
12 DISCRIMINATION CONFIDENTIAL TO THE EXTENT PRACTICABLE. NOTHING
13 IN THIS SECTION PREVENTS SCHOOL STAFF FROM REPORTING KNOWN OR
14 SUSPECTED CHILD ABUSE OR NEGLECT AS REQUIRED PURSUANT TO SECTION
15 19-3-304 OR REPORTING ANY OTHER CRIMINAL ACTIVITY TO LAW
16 ENFORCEMENT. NOTHING IN THIS SECTION PROHIBITS A PUBLIC SCHOOL
17 FROM PROVIDING RECORDS TO LAW ENFORCEMENT, THE DEPARTMENT OF
18 HUMAN SERVICES, OR A DISTRICT ATTORNEY FOR THE INVESTIGATION OR
19 PROSECUTION OF ANY CRIME.

20 (c) EACH PUBLIC SCHOOL SHALL POST NOTICES IN MULTIPLE
21 PLACES IN THE SCHOOL, WRITTEN IN SIMPLE AND AGE-APPROPRIATE
22 LANGUAGE, DESCRIBING HOW AND TO WHOM A STUDENT CAN REPORT
23 HARASSMENT OR DISCRIMINATION TO THE SCHOOL.

24 (d) EACH PUBLIC SCHOOL SHALL ADOPT PROCEDURES FOR
25 INVESTIGATING REPORTS OF HARASSMENT OR DISCRIMINATION, WHICH
26 MUST BE FAIR, IMPARTIAL, AND PROMPT, AND MUST:

27 (I) REQUIRE THE SCHOOL TO MAKE A GOOD FAITH EFFORT TO

1 COMPLETE AN INVESTIGATION AND MAKE ANY FINDINGS WITHIN SIXTY
2 DAYS AFTER THE REPORT, WITHOUT INFRINGING UPON THE RIGHTS
3 ENSHRINED IN FEDERAL AND STATE LAW OF THE REPORTING STUDENT OR
4 THE RESPONDENT; EXCEPT THAT THE PUBLIC SCHOOL MAY EXTEND THE
5 SIXTY-DAY DEADLINE FOR UP TO THIRTY ADDITIONAL DAYS FOR GOOD
6 CAUSE WITH PRIOR WRITTEN NOTICE TO THE REPORTING STUDENT AND TO
7 THE RESPONDENT OF THE DELAY AND THE REASON FOR THE DELAY;

8 (II) INCLUDE PREPONDERANCE OF THE EVIDENCE AS THE
9 EVIDENTIARY STANDARD, NOTWITHSTANDING ANY OTHER EVIDENTIARY
10 STANDARD IN ANY OTHER POLICY OF THE SCHOOL;

11 (III) SPECIFY THAT ALL QUESTIONS RELATED TO THE
12 INVESTIGATION BE DIRECTED TO THE SCHOOL STAFF WHO ARE
13 CONDUCTING THE INVESTIGATION AND THAT THE SCHOOL STAFF
14 CONDUCTING THE INVESTIGATION SHALL CONSIDER PATTERNS OF
15 MISCONDUCT AS RELEVANT EVIDENCE;

16 (IV) PROVIDE THE REPORTING STUDENT AND THE RESPONDENT
17 WITH THE SAME OPPORTUNITY TO HAVE AN ADVISOR OR OTHER PERSON
18 PRESENT DURING ANY PART OF THE INVESTIGATIVE PROCESS; ==

19 (V) PROVIDE FOR REGULAR WRITTEN UPDATES TO THE REPORTING
20 STUDENT AND RESPONDENT AND THE PARENTS OR LEGAL GUARDIANS OF
21 THE STUDENT AND RESPONDENT, ON THE STATUS OF AN INVESTIGATION OR
22 PROCEEDING THROUGHOUT THE PROCESS; AND

23 (VI) PROVIDE FOR CONCURRENT NOTIFICATION TO THE REPORTING
24 STUDENT AND RESPONDENT OF THE OUTCOME OF THE INVESTIGATION AND
25 ANY FINDINGS.

26 (e) EACH PUBLIC SCHOOL SHALL RETAIN THE CASE FILE OF A
27 HARASSMENT OR DISCRIMINATION REPORT FOR SEVEN YEARS. THE CASE

1 FILE INCLUDES ALL INFORMATION RELATED TO THE REPORT, INCLUDING
2 DOCUMENTS RELATED TO ANY INVESTIGATION AND THE SCHOOL'S
3 FINDINGS.

4 (f) A PUBLIC SCHOOL SHALL GRANT AN EXCUSED ABSENCE TO A
5 STUDENT WHO HAS EXPERIENCED HARASSMENT OR DISCRIMINATION FOR
6 ANY TIME THE STUDENT IS OUT OF SCHOOL BECAUSE OF A THERAPY,
7 MEDICAL, LEGAL, OR VICTIM SERVICES APPOINTMENT RELATED TO THE
8 HARASSMENT OR DISCRIMINATION.

9 (g) (I) A PUBLIC SCHOOL SHALL OFFER ACCOMMODATIONS AND
10 SUPPORTIVE MEASURES TO A STUDENT EXPERIENCING HARASSMENT OR
11 DISCRIMINATION THAT ARE DESIGNED TO PROTECT THE SAFETY OF ALL
12 STUDENTS AND THAT PRESERVE AND RESTORE EQUAL ACCESS TO
13 EDUCATION FOR THE STUDENT. ACCOMMODATIONS AND SUPPORTIVE
14 MEASURES MAY INCLUDE, BUT ARE NOT LIMITED TO, COUNSELING,
15 EXTENSIONS OF DEADLINES OR OTHER COURSE-RELATED ADJUSTMENTS,
16 EXTRA TIME FOR HOMEWORK OR TESTS, THE OPPORTUNITY TO RESUBMIT
17 HOMEWORK OR RETAKE A TEST, EXCUSED ABSENCES, THE OPPORTUNITY
18 FOR HOME INSTRUCTION, MODIFICATIONS TO CLASS SCHEDULES, AND _____
19 RESTRICTIONS ON CONTACT BETWEEN THE PARTIES TO A REPORT OF
20 HARASSMENT OR DISCRIMINATION.

21 (II) A PUBLIC SCHOOL SHALL PROVIDE SUPPORTIVE MEASURES
22 REQUIRED PURSUANT TO TITLE IX, AND MAY PROVIDE ANY OTHER
23 SUPPORTIVE MEASURES AS SOON AS IT RECEIVES A REPORT OF
24 HARASSMENT OR DISCRIMINATION.

25 (III) A FORMAL REPORT OR PUBLIC SCHOOL SHALL NOT REQUIRE A
26 FINDING OF HARASSMENT OR DISCRIMINATION BEFORE PROVIDING
27 SUPPORTIVE MEASURES.

1 (3) (a) ON OR BEFORE JULY 1, 2024, EACH PUBLIC SCHOOL SHALL
2 ADOPT A WRITTEN POLICY THAT PROTECTS STUDENTS EXPERIENCING
3 HARASSMENT OR DISCRIMINATION. THE POLICY ADOPTED PURSUANT TO
4 THIS SUBSECTION (3) IS SEPARATE FROM AND IN ADDITION TO ANY POLICY
5 THE SCHOOL MUST ADOPT PURSUANT TO TITLE IX. EACH PUBLIC SCHOOL
6 SHALL PERIODICALLY REVIEW AND UPDATE THE POLICY.

7 (b) THE POLICY MUST BE WRITTEN IN PLAIN LANGUAGE AND
8 INCLUDE THE FOLLOWING:

9 (I) INFORMATION ON ALL REPORTING OPTIONS AVAILABLE TO A
10 STUDENT;

11 (II) THE NAME AND CONTACT INFORMATION FOR THE SCHOOL
12 STAFF MEMBER DESIGNATED TO RECEIVE REPORTS OF HARASSMENT OR
13 DISCRIMINATION, WHO MAY BE THE TITLE IX COORDINATOR OR SERVE IN
14 AN EQUIVALENT POSITION IN THE SCHOOL;

15 (III) AN EXPLANATION OF THE SCHOOL'S ROLE IN RESPONDING TO
16 REPORTS OF HARASSMENT OR DISCRIMINATION, PREVENTING RECURRENCE
17 OF HARASSMENT OR DISCRIMINATION, AND REMEDYING EFFECTS OF THE
18 HARASSMENT OR DISCRIMINATION;

19 (IV) THE CONTACT INFORMATION FOR RESOURCES FOR VICTIMS OF
20 GENDER-BASED VIOLENCE AND SEXUAL VIOLENCE, INCLUDING A LOCAL,
21 STATE, OR NATIONAL TWENTY-FOUR-HOUR HELPLINE FOR DOMESTIC
22 VIOLENCE AND SEXUAL VIOLENCE SUPPORT;

23 (V) THE PROTOCOL FOR SCHOOL STAFF TO RESPOND TO REPORTS
24 OF HARASSMENT OR DISCRIMINATION, INCLUDING:

25 (A) THE PROCEDURES ADOPTED PURSUANT TO SUBSECTION (2)(d)
26 OF THIS SECTION FOR INVESTIGATING REPORTS OF HARASSMENT OR
27 DISCRIMINATION AND MAKING FINDINGS THAT ARE FAIR, IMPARTIAL, AND

1 PROMPT; AND

2 (B) PROHIBITING RELIANCE SOLELY ON A CRIMINAL INVESTIGATION
3 BY A LAW ENFORCEMENT AGENCY IN LIEU OF RESPONDING TO A REPORT OF
4 HARASSMENT OR DISCRIMINATION PROMPTLY AND EFFECTIVELY;

5 (VI) AMNESTY PROTECTIONS FOR A STUDENT WHO REPORTS, OR IS
6 A WITNESS TO A REPORT OF, HARASSMENT OR DISCRIMINATION FOR A
7 SCHOOL POLICY VIOLATION BY THE STUDENT RELATED TO THE INCIDENT,
8 FOR ANY OF THE FOLLOWING: ENGAGING IN REASONABLE SELF-DEFENSE
9 AGAINST THE RESPONDENT, CONSENSUAL SEXUAL ACTIVITY, DRUG USE,
10 ALCOHOL USE, OR TRUANCY; AND

11 (VII) INFORMATION ABOUT AVAILABLE ACCOMMODATIONS AND
12 SUPPORTIVE MEASURES DESCRIBED IN SUBSECTION (2)(g) OF THIS SECTION,
13 INCLUDING INFORMATION ABOUT HOW A STUDENT CAN REQUEST
14 SUPPORTIVE MEASURES AND AN EXPLANATION OF ADDITIONAL
15 ACCOMMODATIONS AVAILABLE FOR STUDENTS WITH DISABILITIES.

16 (c) EACH PUBLIC SCHOOL SHALL MAKE THE POLICY AVAILABLE TO
17 STUDENTS, STUDENTS' PARENTS AND LEGAL GUARDIANS, AND SCHOOL
18 STAFF BY:

19 (I) PROMINENTLY DISPLAYING THE POLICY ON ITS WEBSITE;

20 (II) ANNUALLY DISTRIBUTING THE POLICY THROUGH ELECTRONIC
21 MEANS TO PARENTS AND LEGAL GUARDIANS OF STUDENTS ENROLLED AT
22 THE PUBLIC SCHOOL AND SEPARATELY TO STUDENTS ENROLLED IN SIXTH
23 THROUGH TWELFTH GRADE. THE COPY OF THE POLICY DISTRIBUTED
24 PURSUANT TO THIS SUBSECTION (3)(c)(II) MUST BE DISTRIBUTED
25 SEPARATELY FROM ANY OTHER DOCUMENT.

26 (III) PROVIDING A PHYSICAL COPY OF THE POLICY TO EACH
27 INCOMING STUDENT AND THE PARENT OR LEGAL GUARDIAN OF EACH

1 INCOMING STUDENT, UPON REQUEST; AND

2 (IV) ANNUALLY DISTRIBUTING THE POLICY TO SCHOOL STAFF.

3 (d) A POLICY DISTRIBUTED TO A STUDENT, PARENT, LEGAL
4 GUARDIAN, OR SCHOOL STAFF, WHETHER A PHYSICAL OR ELECTRONIC
5 COPY, MUST BE AVAILABLE IN ENGLISH AND, UPON REQUEST, IN SPANISH.
6 THE POLICY POSTED ON THE WEBSITE MUST BE IN ENGLISH AND A SCHOOL
7 MAY ALSO POST THE POLICY IN SPANISH.

8 (4) ON OR BEFORE JULY 1, 2024, AND ANNUALLY BY EACH JULY 1
9 THEREAFTER, EACH PUBLIC SCHOOL SHALL PROVIDE ANNUAL TRAINING TO
10 ALL SCHOOL STAFF ABOUT HARASSMENT AND DISCRIMINATION. THE
11 TRAINING MUST INCLUDE, AT A MINIMUM, INSTRUCTION ON THE
12 FOLLOWING:

13 (a) RECOGNIZING HARASSMENT OR DISCRIMINATION, INCLUDING
14 INDICATORS OF GROOMING AND CHILD SEXUAL ABUSE;

15 (b) THE APPROPRIATE IMMEDIATE RESPONSE WHEN HARASSMENT
16 OR DISCRIMINATION IS REPORTED TO OR WITNESSED BY A SCHOOL STAFF
17 MEMBER;

18 (c) REPORTING HARASSMENT OR DISCRIMINATION TO THE PUBLIC
19 SCHOOL OR SCHOOL DISTRICT;

20 (d) THE PUBLIC SCHOOL'S PROCEDURE FOR RESPONDING TO
21 ALLEGATIONS OF HARASSMENT OR DISCRIMINATION;

22 (e) THE DIFFERENCE BETWEEN THE PUBLIC SCHOOL'S HARASSMENT
23 OR DISCRIMINATION POLICY ADOPTED PURSUANT TO THIS SECTION;
24 OBLIGATIONS REQUIRED BY FEDERAL LAW IN TITLE IX; SECTION 504 OF
25 THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 701 ET
26 SEQ.; TITLE VI OF THE FEDERAL "CIVIL RIGHTS ACT OF 1964", 42 U.S.C.
27 SEC. 2000d ET SEQ.; AND TITLE VII OF THE FEDERAL "CIVIL RIGHTS ACT

1 OF 1964", 42 U.S.C. SEC. 2000e ET SEQ.; AND MANDATORY REPORTING
2 REQUIREMENTS IN STATE LAW;

3 (f) BEST PRACTICES FOR AVOIDING VICTIM-BLAMING; THE EFFECT
4 OF TRAUMA ON VICTIMS OF HARASSMENT OR DISCRIMINATION;
5 COMMUNICATING WITH VICTIMS SENSITIVELY, COMPASSIONATELY, AND IN
6 A GENDER-INCLUSIVE AND CULTURALLY RESPONSIVE MANNER; AND THE
7 IMPACT OF HARASSMENT OR DISCRIMINATION ON STUDENTS WITH
8 DISABILITIES; AND

9 (g) THE TYPES OF SUPPORTIVE MEASURES AVAILABLE TO
10 STUDENTS AND THE PROVISION OF EFFECTIVE ACADEMIC, MENTAL HEALTH,
11 AND SAFETY ACCOMMODATIONS FOR STUDENTS WHO REPORT
12 HARASSMENT OR DISCRIMINATION.

13 (5) (a) ON OR BEFORE JULY 1, 2025, AND ON OR BEFORE JULY 1 OF
14 EACH YEAR THEREAFTER, EACH PUBLIC SCHOOL OF A SCHOOL DISTRICT
15 SHALL REPORT TO THE SCHOOL DISTRICT, AND EACH INSTITUTE CHARTER
16 SCHOOL SHALL REPORT TO THE STATE CHARTER SCHOOL INSTITUTE, THE
17 FOLLOWING INFORMATION FROM THE PRIOR TWELVE MONTHS:

18 (I) THE NUMBER OF HARASSMENT OR DISCRIMINATION REPORTS
19 RECEIVED BY THE SCHOOL AND THE TYPE OF BIAS REPORTED; ==

20 (II) THE TIME TO COMPLETE EACH INVESTIGATION AND TO MAKE
21 FINDINGS RELATED TO EACH REPORT; AND

22 (III) THE SCHOOL'S FINDINGS ABOUT EACH REPORT.

23 (b) ON OR BEFORE AUGUST 1, 2025, AND ON OR BEFORE AUGUST
24 1 OF EACH YEAR THEREAFTER, THE STATE CHARTER SCHOOL INSTITUTE
25 AND EACH SCHOOL DISTRICT SHALL REPORT TO THE DEPARTMENT OF
26 EDUCATION THE INFORMATION IT RECEIVED FROM EACH SCHOOL
27 PURSUANT TO SUBSECTION (5)(a) OF THIS SECTION.

1 (c) ON OR BEFORE OCTOBER 1, 2025, AND ON OR BEFORE OCTOBER
2 1 OF EACH YEAR THEREAFTER, THE DEPARTMENT SHALL REPORT THE
3 INFORMATION RECEIVED PURSUANT TO THIS SECTION TO THE SEXUAL
4 MISCONDUCT ADVISORY COMMITTEE CREATED IN SECTION 23-5-147.

5 (6) THIS SECTION DOES NOT AUTHORIZE A PUBLIC SCHOOL OR
6 SCHOOL DISTRICT, OR THE CHARTER SCHOOL INSTITUTE, TO VIOLATE ANY
7 FEDERAL LAW, INCLUDING TITLE IX, IN CARRYING OUT THE DUTIES
8 DESCRIBED IN THIS SECTION.

9 **SECTION 2.** In Colorado Revised Statutes, 22-33-104, **add**
10 **(2)(k) as follows:**

11 **22-33-104. Compulsory school attendance.** (2) The provisions
12 **of subsection (1) of this section shall not apply to a child:**

13 **(k) WHO IS EXCUSED FROM SCHOOL FOR A THERAPY, MEDICAL,**
14 **LEGAL, OR VICTIM SERVICES APPOINTMENT RELATED TO HARASSMENT OR**
15 **DISCRIMINATION, AS DESCRIBED IN SECTION 22-1-140 (2)(f).**

16 == ==

17 **SECTION 3. Act subject to petition - effective date.** This act
18 takes effect at 12:01 a.m. on the day following the expiration of the
19 ninety-day period after final adjournment of the general assembly; except
20 that, if a referendum petition is filed pursuant to section 1 (3) of article V
21 of the state constitution against this act or an item, section, or part of this
22 act within such period, then the act, item, section, or part will not take
23 effect unless approved by the people at the general election to be held in
24 November 2024 and, in such case, will take effect on the date of the
25 official declaration of the vote thereon by the governor.