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Final Fiscal Note

Drafting Number: LLS 23-0118 **Date:** July 5, 2023
Prime Sponsors: Rep. Gonzales-Gutierrez; **Bill Status:** Postponed Indefinitely
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Bill Topic: SCHOOL POLICIES & STUDENT CONDUCT

Summary of Fiscal Impact:

<input type="checkbox"/> State Revenue	<input type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input checked="" type="checkbox"/> School Districts

The bill changes the due process and legal thresholds for expulsion, suspension, or the denial of admission of public school students. The bill would have increased state and school district workload and expenditures on an ongoing basis.

Appropriation Summary: For FY 2022-23, the bill requires an appropriation of \$85,962 to the Colorado Department of Education.

Fiscal Note Status: The fiscal note reflects the introduced bill. The bill was postponed indefinitely by the House Education Committee on April 6, 2023, therefore, the impacts identified in this analysis do not take effect.

**Table 1
State Fiscal Impacts Under HB 23-1109**

		Budget Year FY 2023-24	Out Year FY 2024-25
Revenue		-	-
Expenditures	General Fund	\$85,962	\$40,146
	Centrally Appropriated	\$7,131	\$9,142
	Total Expenditures	\$93,093	\$49,288
	Total FTE	0.4 FTE	0.5 FTE
Transfers		-	-
Other Budget Impacts	General Fund Reserve	\$12,894	\$6,022

Summary of Legislation

The bill modifies laws related to the suspension, expulsion, or the denial of admission of students.

Grounds for suspension or expulsion. The bill prohibits school districts from expelling or denying admission to a student for conduct occurring more than one year prior. School districts are required to consider specified factors such as age and the disciplinary history or disability of a student before taking disciplinary action, and the bill adds criteria to the grounds for denial of admission of a student, including having been expelled from a prior school for possession of a firearm.

Under current law, a student may be suspended or expelled for behavior on or off school property. Under the bill, a student can only be suspended or expelled for behavior off school grounds if the school district demonstrates that the student poses an imminent threat to other students and staff by establishing a direct and substantial nexus between the student's alleged off school grounds conduct, and the risk of physical harm to other students or staff. Student behavior off school grounds that results in delinquency or criminal charges are not automatic grounds for suspension or expulsion.

Due process changes. Under current law, a student whom the school district is trying to expel or deny admission has the right to a hearing where evidence can be presented. If a district, a student, or a student's parent or legal guardian requests a hearing, the district has the burden of presenting evidence the student has violated the law or district policy as grounds for expulsion. The bills sets timelines for districts to deliver records, written statements or testimony, and other evidence to the student before a hearing, and for the written opinions of hearing officers and student or district appeals.

Hearing officers. The bill requires that hearing officers recuse themselves if there is a conflict of interest, including a relationship to individuals involved, or participation in the investigation or reporting of the incident. Hearing officers must participate in an annual training on state school discipline law, including instruction on how to weigh specified student factors, and information on federal special education laws.

Data reporting. The bill requires that school districts annually report certain information to the Colorado Department of Education (CDE), including how often hearing officers recommended expulsion, disaggregated by gender, grade level, race, ethnicity, English language learner status, disability, and whether the student is receiving special education accommodations. Annual reporting must also include the frequency with which the executive officer and the board of education uphold recommendations to impose or refrain from disciplinary action.

Judicial review. Within five days following the final action of a board of education upholding an expulsion or denial of admission, the board must issue a written order. The student or the student's parent or legal guardian may file for court review of the order within 10 days, and the courts must conduct a hearing within 21 days. If the court finds in favor of the student and determines the school district violated the student's legal rights, the court must award reasonable attorney fees and litigation expenses.

State Expenditures

The bill increases state expenditures in the CDE by \$93,093 in FY 2023-24, and by \$49,288 in FY 2024-25, paid from the General Fund. It will also increase workload for the trial courts in the Judicial Department. Expenditures are shown in Table 2 and detailed below.

**Table 2
Expenditures Under HB 23-1160**

	FY 2023-24	FY 2024-25
Colorado Department of Education		
Personal Services	\$29,097	\$38,796
Operating Expenses	\$695	\$1,350
Capital Outlay Costs	\$6,670	-
Information Technology Vendor	\$49,500	-
Centrally Appropriated Costs ¹	\$7,131	\$9,142
Total Cost	\$93,093	\$49,288
Total FTE	0.4 FTE	0.5 FTE

¹ Centrally appropriated costs are not included in the bill's appropriation.

Personal services. CDE will add 0.5 FTE for an information management consultant to coordinate the new data collection, which includes working with the department’s IT vendor to implement a new data file layout and develop necessary business rules and materials for technical assistance to schools and districts. Staff will ensure proper coordination with the Education Data Advisory Committee, review and validate submissions, and assist with required reporting. Personal service costs in FY 2022-23 are prorated for a September 1 effective date, and the General Fund pay date shift.

Information technology vendor. The bill requires specific disaggregated disciplinary data from schools and districts, which requires the modification of the reporting software used by the CDE. This new reporting capability will be created in coordination with LEPs, and is estimated at 340 hours of contracted IT services, at a rate of \$125 per hour.

Judicial review. The bill minimally increases court activity if a student or a student’s parent or guardian request the courts to review a disciplinary action taken by a school or district. This increases workload by a minimal amount for the trial courts and no change in appropriations is required.

Centrally appropriated costs. Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

School District

Schools and school districts will have increased costs under the bill for training, data reporting, and legal and hearing costs. These costs, which will vary by district, are discussed below.

Training. School districts must ensure that all hearing officers receive annual training on school discipline laws, including instruction on how to weigh specified student factors, and information on the requirements and implementation of federal special education laws. This expense will be paid using a school or district's existing resources.

Data reporting. The bill increases workload for schools and districts to collect and disaggregate student discipline data. Because current law requires specified data reporting concerning expulsions and suspensions, this workload increase is expected to be a minimal.

Legal and hearing costs. Districts will have additional workload and costs to provide required documentation and information to students and parents prior to a hearing within specified timelines. Hearing processes and participation by school district employees may also be adjusted under the bill. In addition, legal costs will increase for school districts to participate in any cases referred for judicial review. In the event the courts rule for the student in such cases, school districts are required to pay reasonable attorney fees and expenses.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2023-24, the bill requires a General Fund appropriation of \$85,962 to the Colorado Department of Education, and 0.4 FTE.

State and Local Government Contacts

Child Welfare
School Districts

Education

Judicial