

## CHAPTER 390

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**EDUCATION - PUBLIC SCHOOLS**

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## SENATE BILL 23-296

BY SENATOR(S) Winter F. and Marchman, Buckner, Coleman, Cutter, Danielson, Exum, Fields, Ginal, Gonzales, Hansen, Jaquez Lewis, Kolker, Moreno, Mullica, Priola, Roberts, Sullivan;  
also REPRESENTATIVE(S) Bacon and Herod, Amabile, Boesenecker, Brown, Dickson, Duran, English, Epps, Froelich, Garcia, Gonzales-Gutierrez, Hamrick, Jodeh, Joseph, Lieder, Lindsay, Lindstedt, Lukens, Mabrey, Martinez, Michaelson Jenet, Ortiz, Parenti, Ricks, Sharbini, Sirota, Story, Titone, Valdez, Velasco, Vigil, Woodrow, Young, McCluskie.

**AN ACT****CONCERNING PROTECTIONS FOR STUDENTS AGAINST DISCRIMINATORY PRACTICES AT SCHOOL.**

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

**SECTION 1. Legislative intent.** It is the intent of the general assembly to provide additional and complimentary requirements for complaints that would fall under Title IX of the of the federal "Education Amendments of 1972" and provide equitable standards for harassment based on protected classes other than sex to ensure that students who are subject to harassment or discrimination are provided a prompt and fair process, information about their rights and status of the complaint, and supportive measures or accommodations to remedy the impact of the harassment or discrimination.

**SECTION 2.** In Colorado Revised Statutes, **add 22-1-143** as follows:

**22-1-143. Harassment or discrimination - policy required - training and notification - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "CONTRACTOR" MEANS A PERSON WHO HAS DIRECT CONTACT WITH OR SUPERVISION OVER STUDENTS PURSUANT TO A CONTRACT WITH A SCHOOL OR LOCAL EDUCATION PROVIDER.

(b) "COMPLAINANT" MEANS A PERSON WHO IS SUBJECT TO, AND FILES A REPORT

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*Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.*

OF, ALLEGED MISCONDUCT OR DISCRIMINATION PURSUANT TO A LOCAL EDUCATION PROVIDER'S POLICY.

(c) "EMPLOYEE" MEANS ANY EMPLOYEE OF THE PUBLIC SCHOOL OR SCHOOL DISTRICT, INCLUDING TEACHERS, TEACHER AIDES, BUS DRIVERS, CAFETERIA WORKERS, CUSTODIAL STAFF, ATHLETIC STAFF, ADMINISTRATIVE AND CLERICAL STAFF, SCHOOL MEDICAL STAFF, AND SECURITY STAFF, AND CONTRACTORS.

(d)(I) "HARASSMENT OR DISCRIMINATION" MEANS TO ENGAGE IN, OR THE ACT OF ENGAGING IN, ANY UNWELCOME PHYSICAL OR VERBAL CONDUCT OR ANY WRITTEN, PICTORIAL, OR VISUAL COMMUNICATION BY A STUDENT OR EMPLOYEE THAT IS DIRECTED AT A STUDENT OR GROUP OF STUDENTS BECAUSE OF THAT STUDENT'S OR GROUP'S MEMBERSHIP IN, OR PERCEIVED MEMBERSHIP IN, A PROTECTED CLASS BASED ON DISABILITY, RACE, CREED, COLOR, SEX, SEXUAL ORIENTATION, GENDER IDENTITY, GENDER EXPRESSION, FAMILY COMPOSITION, RELIGION, AGE, NATIONAL ORIGIN, OR ANCESTRY, WHICH CONDUCT OR COMMUNICATION IS OBJECTIVELY OFFENSIVE TO A REASONABLE INDIVIDUAL WHO IS A MEMBER OF THE SAME PROTECTED CLASS. THE CONDUCT OR COMMUNICATION NEED NOT BE SEVERE OR PERVASIVE TO CONSTITUTE HARASSMENT OR DISCRIMINATION AND CONSTITUTES HARASSMENT OR DISCRIMINATION IF:

(A) SUBMISSION TO THE CONDUCT OR COMMUNICATION IS EXPLICITLY OR IMPLICITLY MADE A TERM OR CONDITION OF THE INDIVIDUAL'S ACCESS TO AN EDUCATIONAL SERVICE, OPPORTUNITY, OR BENEFIT;

(B) SUBMISSION TO, OBJECTION TO, OR REJECTION OF THE CONDUCT OR COMMUNICATION IS USED OR EXPLICITLY OR IMPLICITLY THREATENED TO BE USED AS A BASIS FOR EDUCATIONAL DECISIONS AFFECTING THE INDIVIDUAL; OR

(C) THE CONDUCT OR COMMUNICATION HAS THE PURPOSE OR EFFECT OF UNREASONABLY INTERFERING WITH THE INDIVIDUAL'S ACCESS TO THEIR EDUCATIONAL SERVICE, OPPORTUNITY, OR BENEFIT OR CREATING AN INTIMIDATING, HOSTILE, OR OFFENSIVE EDUCATIONAL ENVIRONMENT.

(II) PETTY SLIGHTS, MINOR ANNOYANCES, AND LACK OF GOOD MANNERS DO NOT CONSTITUTE HARASSMENT OR DISCRIMINATION UNLESS THE SLIGHTS, ANNOYANCES, OR LACK OF MANNERS, WHEN TAKEN IN COMBINATION AND UNDER THE TOTALITY OF THE CIRCUMSTANCES, MEET THE STANDARD SET FORTH IN SUBSECTION (1)(d)(I) OF THIS SECTION.

(III) WHETHER CONDUCT CONSTITUTES HARASSMENT OR DISCRIMINATION IS JUDGED UNDER THE TOTALITY OF THE CIRCUMSTANCES, WHICH MAY INCLUDE, BUT IS NOT LIMITED TO:

(A) THE FREQUENCY OF THE CONDUCT OR COMMUNICATION, RECOGNIZING THAT A SINGLE INCIDENT MAY RISE TO THE LEVEL OF HARASSMENT OR DISCRIMINATION;

(B) THE NUMBER OF INDIVIDUALS ENGAGED IN THE CONDUCT OR COMMUNICATION;

(C) THE TYPE OR NATURE OF THE CONDUCT OR COMMUNICATION;

(D) THE DURATION OF THE CONDUCT OR COMMUNICATION;

(E) THE LOCATION WHERE THE CONDUCT OR COMMUNICATION OCCURRED;

(F) WHETHER THE CONDUCT OR COMMUNICATION IS THREATENING;

(G) WHETHER ANY POWER DIFFERENTIAL EXISTS BETWEEN THE INDIVIDUAL ALLEGED TO HAVE ENGAGED IN HARASSMENT OR DISCRIMINATION AND THE INDIVIDUAL ALLEGING THE HARASSMENT OR DISCRIMINATION;

(H) ANY USE OF EPITHETS, SLURS, OR OTHER CONDUCT OR COMMUNICATION THAT IS HUMILIATING OR DEGRADING;

(I) WHETHER THE CONDUCT OR COMMUNICATION REFLECTS STEREOTYPES ABOUT AN INDIVIDUAL OR GROUP OF INDIVIDUALS IN A PROTECTED CLASS; OR

(J) WHETHER THE CONDUCT INCLUDES AN ACT OF PHYSICAL VIOLENCE.

(e) "LOCAL EDUCATION PROVIDER" MEANS A SCHOOL DISTRICT, A CHARTER SCHOOL AUTHORIZED BY A SCHOOL DISTRICT PURSUANT TO PART 1 OF ARTICLE 30.5 OF THIS TITLE 22, A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE 22, OR A BOARD OF COOPERATIVE SERVICES CREATED AND OPERATING PURSUANT TO ARTICLE 5 OF THIS TITLE 22 THAT OPERATES ONE OR MORE PUBLIC SCHOOLS.

(f) "POLICY" MEANS THE POLICY ADOPTED BY A LOCAL EDUCATION PROVIDER AS REQUIRED IN SUBSECTION (3) OF THIS SECTION.

(g) "PUBLIC SCHOOL" MEANS AN ELEMENTARY SCHOOL, MIDDLE SCHOOL, JUNIOR HIGH SCHOOL, HIGH SCHOOL, OR DISTRICT CHARTER SCHOOL OF A SCHOOL DISTRICT THAT ENROLLS STUDENTS IN ANY OF GRADES KINDERGARTEN THROUGH TWELVE OR AN INSTITUTE CHARTER SCHOOL THAT ENROLLS STUDENTS IN ANY OF GRADES KINDERGARTEN THROUGH TWELVE.

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

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

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

(b) A REPORT OF HARASSMENT OR DISCRIMINATION RECEIVED BY A PUBLIC SCHOOL IS CONFIDENTIAL AND EMPLOYEES SHALL KEEP INFORMATION LEARNED DURING AN INVESTIGATION OF HARASSMENT OR DISCRIMINATION CONFIDENTIAL TO THE EXTENT PRACTICABLE. NOTHING IN THIS SECTION PREVENTS EMPLOYEES FROM REPORTING KNOWN OR SUSPECTED CHILD ABUSE OR NEGLECT AS REQUIRED PURSUANT TO SECTION 19-3-304 OR REPORTING ANY OTHER CRIMINAL ACTIVITY TO LAW ENFORCEMENT. NOTHING IN THIS SECTION PROHIBITS A PUBLIC SCHOOL OR A LOCAL EDUCATION PROVIDER FROM PROVIDING RECORDS TO LAW ENFORCEMENT,

THE DEPARTMENT OF HUMAN SERVICES, OR A DISTRICT ATTORNEY FOR THE INVESTIGATION OR PROSECUTION OF ANY CRIME.

(c) EACH PUBLIC SCHOOL SHALL POST NOTICES IN MULTIPLE PLACES IN THE SCHOOL, WRITTEN IN SIMPLE AND AGE-APPROPRIATE LANGUAGE, DESCRIBING HOW AND TO WHOM A STUDENT CAN REPORT HARASSMENT OR DISCRIMINATION TO THE SCHOOL. THE NOTICES MUST BE CONSPICUOUSLY POSTED IN EASILY ACCESSIBLE AND WELL-LIT PLACES CUSTOMARILY FREQUENTED BY STUDENTS AND EMPLOYEES.

(d) EACH LOCAL EDUCATION PROVIDER SHALL ADOPT PROCEDURES FOR INVESTIGATING REPORTS OF HARASSMENT OR DISCRIMINATION, WHICH MUST BE FAIR, IMPARTIAL, AND PROMPT, AND MUST:

(I) REQUIRE A PUBLIC SCHOOL TO MAKE A GOOD FAITH EFFORT TO COMPLETE AN INVESTIGATION AND MAKE ANY FINDINGS WITHIN SIXTY DAYS AFTER THE REPORT, WITHOUT INFRINGING UPON THE RIGHTS ENSHRINED IN FEDERAL AND STATE LAW OF THE COMPLAINANT OR THE RESPONDENT; EXCEPT THAT THE PUBLIC SCHOOL MAY EXTEND THE SIXTY-DAY DEADLINE FOR UP TO THIRTY ADDITIONAL DAYS FOR GOOD CAUSE WITH PRIOR WRITTEN NOTICE TO THE COMPLAINANT AND TO THE RESPONDENT OF THE DELAY AND THE REASON FOR THE DELAY OR MAY EXTEND THE DEADLINE AT THE REQUEST OF A LAW ENFORCEMENT AGENCY;

(II) INCLUDE PREPONDERANCE OF THE EVIDENCE AS THE EVIDENTIARY STANDARD, NOTWITHSTANDING ANY OTHER EVIDENTIARY STANDARD IN ANY OTHER POLICY OF THE LOCAL EDUCATION PROVIDER;

(III) SPECIFY THAT ALL QUESTIONS RELATED TO THE INVESTIGATION BE DIRECTED TO THE INDIVIDUAL CONDUCTING THE INVESTIGATION, OR THE INDIVIDUAL'S DESIGNEE, AND THAT THE INDIVIDUAL OR DESIGNEE CONDUCTING THE INVESTIGATION SHALL CONSIDER PATTERNS OF MISCONDUCT AS RELEVANT EVIDENCE;

(IV) PROVIDE THE PARTIES WITH THE SAME OPPORTUNITY TO HAVE AN ADVISOR OR OTHER PERSON PRESENT DURING ANY PART OF THE INVESTIGATIVE PROCESS;

(V) PROVIDE WRITTEN UPDATES ABOUT THE STATUS OF AN INVESTIGATION OR PROCEEDING TO THE PARTIES AND THE PARTIES' PARENTS OR LEGAL GUARDIANS AT EACH STAGE OF THE INVESTIGATION OR PROCEEDING, BUT AT LEAST EVERY FIFTEEN BUSINESS DAYS;

(VI) PROVIDE FOR CONCURRENT NOTIFICATION TO THE PARTIES OF THE OUTCOME OF THE INVESTIGATION AND ANY FINDINGS; AND

(VII) PROHIBIT RETALIATION AGAINST A STUDENT WHO MAKES A REPORT, OR PARTICIPATES IN AN INVESTIGATION INTO A REPORT MADE, PURSUANT TO THIS SECTION. CHARGES AGAINST A STUDENT FOR CODE OF CONDUCT VIOLATIONS RELATED TO THE INCIDENT FOR THE PURPOSE OF PUNISHING A STUDENT FOR MAKING A REPORT OR OTHERWISE INTERFERING WITH ANY RIGHT OR PRIVILEGE SECURED BY THIS SECTION CONSTITUTES RETALIATION.

(e) EACH LOCAL EDUCATION PROVIDER SHALL RETAIN THE RECORDS OF A

HARASSMENT OR DISCRIMINATION REPORT FOR SEVEN YEARS. THE RECORD OF A REPORT INCLUDES ANY ACCOMMODATIONS OR SUPPORTIVE MEASURES TAKEN IN RESPONSE TO A REPORT OR FORMAL COMPLAINT OF HARASSMENT OR DISCRIMINATION AND DOCUMENTATION OF THE BASIS FOR THE LOCAL EDUCATION PROVIDER'S ACTION AND RESPONSE.

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

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

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

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

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

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

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

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

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

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

(V) THE PROTOCOL FOR EMPLOYEES TO RESPOND TO REPORTS OF HARASSMENT OR DISCRIMINATION, INCLUDING:

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

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

(VI) A PROHIBITION ON A SCHOOL USING A STUDENT REPORT OF HARASSMENT OR DISCRIMINATION, WHETHER VERBAL OR IN WRITING, OR INFORMATION REVEALED IN ANY INVESTIGATION OR DISCIPLINARY PROCEEDINGS OF THE REPORT, AS THE BASIS FOR, OR A CONSIDERATION IN, INVESTIGATING OR EXACTING ANY DISCIPLINARY RESPONSE FOR A SCHOOL VIOLATION BY THE REPORTING STUDENT OR COMPLAINANT RELATED TO THE REPORTED INCIDENT FOR ANY OF THE FOLLOWING: ENGAGING IN REASONABLE SELF-DEFENSE AGAINST THE RESPONDENT, CONSENSUAL SEXUAL ACTIVITY, DRUG USE, ALCOHOL USE, LATE ARRIVAL, TRUANCY, UNAUTHORIZED ACCESS TO FACILITIES, TALKING PUBLICLY ABOUT THE REPORTED HARASSMENT OR DISCRIMINATION, OR EXPRESSING A TRAUMA SYMPTOM; EXCEPT THAT NOTHING IN THIS SECTION PROHIBITS A SCHOOL OR LOCAL EDUCATION PROVIDER FROM DISCIPLINING A STUDENT WHO KNOWINGLY MAKES A FALSE REPORT OF HARASSMENT OR DISCRIMINATION, OR DISCIPLINING A STUDENT WHEN NECESSARY TO ENSURE THE SAFETY OF ANY STUDENT OR EMPLOYEE. A FINDING OF NO HARASSMENT OR DISCRIMINATION DOES NOT ITSELF CONSTITUTE A FALSE REPORT.

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

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

(I) PROMINENTLY DISPLAYING THE POLICY ON THE HOME PAGE OF ITS WEBSITE;

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

(III) PROVIDING A PHYSICAL COPY OF THE POLICY TO EACH INCOMING STUDENT AND THE PARENT OR LEGAL GUARDIAN OF EACH INCOMING STUDENT, UPON REQUEST; AND

(IV) ANNUALLY DISTRIBUTING THE POLICY TO EMPLOYEES.

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

(4) BEGINNING NO LATER THAN JULY 1, 2024, EACH PUBLIC SCHOOL SHALL PROVIDE TRAINING TO ALL EMPLOYEES ABOUT HARASSMENT AND DISCRIMINATION. EACH NEW EMPLOYEE OF A PUBLIC SCHOOL MUST COMPLETE TRAINING UPON HIRING, AND AT LEAST EVERY THREE YEARS THEREAFTER; EXCEPT THAT AN EMPLOYEE MUST COMPLETE TRAINING WHEN TRANSFERRING FROM A POSITION WORKING WITH ELEMENTARY SCHOOL-AGED STUDENTS TO A POSITION WORKING WITH SECONDARY SCHOOL-AGED STUDENTS, OR TRANSFERRING FROM A POSITION WORKING WITH SECONDARY SCHOOL-AGED STUDENTS TO A POSITION WORKING WITH ELEMENTARY SCHOOL-AGED STUDENTS. THE TRAINING MUST BE PROVIDED DURING THE EMPLOYEE'S NORMAL WORKING HOURS. THE TRAINING MUST INCLUDE, AT A MINIMUM, INSTRUCTION ON THE FOLLOWING:

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

(b) THE APPROPRIATE IMMEDIATE RESPONSE WHEN HARASSMENT OR DISCRIMINATION IS REPORTED TO OR WITNESSED BY AN EMPLOYEE;

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

(d) IF THE EMPLOYEE HAS DIRECT SUPERVISION OF STUDENTS, THE FOLLOWING:

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

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

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

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

(5) (a) ON OR BEFORE JULY 1, 2025, AND ON OR BEFORE JULY 1 OF EACH YEAR THEREAFTER, EACH PUBLIC SCHOOL OF A SCHOOL DISTRICT SHALL REPORT TO THE SCHOOL DISTRICT, AND EACH INSTITUTE CHARTER SCHOOL SHALL REPORT TO THE STATE CHARTER SCHOOL INSTITUTE, THE FOLLOWING INFORMATION, AGGREGATED AND WITHOUT PERSONALLY IDENTIFIABLE INFORMATION ABOUT THE PARTIES, FROM THE PRIOR TWELVE MONTHS:

(I) THE NUMBER OF FORMAL HARASSMENT OR DISCRIMINATION REPORTS RECEIVED BY THE SCHOOL AND THE TYPE OF BIAS REPORTED WHEN HARASSMENT OR DISCRIMINATION WAS FOUND; AND

(II) THE TIME TO COMPLETE EACH INVESTIGATION AND TO MAKE FINDINGS RELATED TO EACH REPORT.

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

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

(6) (a) THIS SECTION DOES NOT AUTHORIZE A PUBLIC SCHOOL OR LOCAL EDUCATION PROVIDER, OR THE CHARTER SCHOOL INSTITUTE, TO VIOLATE ANY FEDERAL LAW, REGULATION, OR GUIDELINE, INCLUDING TITLE IX; SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", 29 U.S.C. SEC. 701 ET SEQ.; AND TITLE VI OF THE FEDERAL "CIVIL RIGHTS ACT OF 1964", 42 U.S.C. SEC. 2000d ET SEQ.; IN CARRYING OUT THE DUTIES DESCRIBED IN THIS SECTION. IF THIS SECTION CONFLICTS WITH TITLE IX, SECTION 504 OF THE FEDERAL "REHABILITATION ACT OF 1973", OR TITLE VI OF THE FEDERAL "CIVIL RIGHTS ACT OF 1964", THE APPLICABLE FEDERAL LAW PREVAILS.

(b) IF A PERSON FILES A COMPLAINT ALLEGING CONDUCT OR COMMUNICATION THAT IS GOVERNED BY FEDERAL LAW AND THIS SECTION, BOTH THE FEDERAL LAW AND THIS SECTION APPLY AND SCHOOL OR LOCAL EDUCATION PROVIDER SHALL CONCURRENTLY EVALUATE THE COMPLAINT PURSUANT TO FEDERAL LAW AND THE PROCEDURES AND POLICIES REQUIRED BY THIS SECTION.

(7) A COMPLAINT THAT IS UNSUBSTANTIATED IS CONFIDENTIAL AND NOT SUBJECT TO DISCLOSURE PURSUANT TO THE "COLORADO OPEN RECORDS ACT", PART 2 OF ARTICLE 72 OF TITLE 24, AND MUST NOT SERVE AS A BASIS FOR DISCIPLINE, DISMISSAL, TERMINATION, OR ANY EMPLOYMENT REFERENCE OR LICENSING ACTION UNLESS THE CONDUCT ESTABLISHES OF PATTERN OF THE SAME OR SIMILAR BEHAVIOR.

**SECTION 3.** In Colorado Revised Statutes, 22-33-104, **add** (2)(k) as follows:

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



(k) WHO IS EXCUSED FROM SCHOOL FOR A THERAPY, MEDICAL, LEGAL, OR VICTIM SERVICES APPOINTMENT RELATED TO HARASSMENT OR DISCRIMINATION, AS DESCRIBED IN SECTION 22-1-143 (2)(f), OR FOR BEHAVIORAL OR MENTAL HEALTH CONCERNS RELATED TO HARASSMENT OR DISCRIMINATION.

**SECTION 4.** In Colorado Revised Statutes, 24-72-202, **amend** (6)(b)(XIV) and (6)(b)(XV); **add** (6)(b)(XVII) as follows:

**24-72-202. Definitions.** As used in this part 2, unless the context otherwise requires:

(6) (b) "Public records" does not include:

(XIV) Pursuant to the "Colorado Partnership for Quality Jobs and Services Act", part 11 of article 50 of this title 24, records created in compliance with the requirements of a state employee partnership agreement as specified in section 24-50-1111 (3)(d) and documents created in connection with the dispute resolution process for an employee partnership agreement as specified in section 24-50-1113 (2)(e); ~~or~~

(XV) Granular coverage data, as defined in and submitted to the office of information technology pursuant to section 24-37.5-119 (9)(m); OR

(XVII) A COMPLAINT OF HARASSMENT OR DISCRIMINATION, AS DESCRIBED IN SECTION 22-1-143, THAT IS UNSUBSTANTIATED AND ALL RECORDS RELATED TO THE UNSUBSTANTIATED COMPLAINT, INCLUDING RECORDS OF AN INVESTIGATION INTO THE COMPLAINT.

**SECTION 5. Act subject to petition - effective date.** This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 6, 2023