



**COLORADO**

**Department of  
Regulatory Agencies**

Colorado Office of Policy, Research &  
Regulatory Reform

# 2022 Sunset Review

Colorado Youth Advisory Council

Commission on Criminal and Juvenile Justice

Defense Counsel on First Appearance Grant Program

Evidence-based Practices Implementation for Capacity  
Advisory Board

Food Systems Advisory Council

Health Equity Commission

Sexual Misconduct Advisory Committee

State Noxious Weed Advisory Committee



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October 14, 2022



**COLORADO**

**Department of  
Regulatory Agencies**

Executive Director's Office

October 14, 2022

Members of the Colorado General Assembly  
c/o the Office of Legislative Legal Services  
State Capitol Building  
Denver, Colorado 80203

Dear Members of the General Assembly:

The General Assembly established a sunset review process for advisory committees and boards in 1986 as a way to analyze and evaluate their efficacy and to determine whether they should continue. Pursuant to section 2-3-1203, Colorado Revised Statutes, the Colorado Office of Policy, Research and Regulatory Reform (COPRRR) at the Department of Regulatory Agencies undertakes a review process culminating in the release of multiple reports each year on October 15.

A national leader in regulatory reform, COPRRR takes the vision of their office, the department, and more broadly of our state government seriously. Specifically, the office contributes to the strong economic landscape in Colorado by ensuring that we have thoughtful, efficient, and inclusive regulations that reduce barriers to entry into various professions, and that open doors of opportunity for all Coloradans.

As part of this year's reviews, COPRRR has completed its evaluations of the Colorado Youth Advisory Council, Commission on Criminal and Juvenile Justice, Defense Counsel on First Appearance Grant Program, Evidence-based Practices Implementation for Capacity Advisory Board, Food Systems Advisory Council, Health Equity Commission, Sexual Misconduct Advisory Committee and State Noxious Weed Advisory Committee. I am pleased to submit this written report, which will be the basis for COPRRR's oral testimony before the 2023 legislative committees of reference.

The report discusses the effectiveness of the committees in carrying out the intention of the statutes and makes recommendations as to whether they should be continued.

To learn more about the sunset review process, among COPRRR's other functions, visit [coprrr.colorado.gov](http://coprrr.colorado.gov).

Sincerely,

A handwritten signature in black ink that reads "Patty Salazar".

Patty Salazar  
Executive Director





## 2022 Sunset Reviews of Advisory Committees

### ***Continue the Colorado Youth Advisory Council.***

The purpose of COYAC is to examine, validate and discuss the issues, interests and needs affecting Colorado youth. COYAC provides a valuable service by actively engaging in the legislative process by recommending changes and improvements for issues affecting the youth population in Colorado. COYAC continues to meet regularly and explore issues that would improve the quality of life related to the Colorado youth population. Therefore, COYAC should be continued.

### ***Continue the Commission on Criminal and Juvenile Justice.***

The Commission was created in 2007 as a result of the passage of House Bill 07-1358 and provides ongoing work and recommendations regarding the reduction of recidivism and the efficient allocation of criminal justice funding. Therefore, the General Assembly should continue the Commission.

### ***Continue the Defense Counsel on First Appearance Grant Program.***

The purpose of the Defense Counsel on First Appearance Grant Program is to reimburse local governments for the costs of providing defense counsel to defendants on their first appearance in municipal court if they are facing incarceration, and it should be continued.

### ***Sunset the Evidence-based Practices Implementation for Capacity Advisory Board.***

The EPIC Board was created to support the EPIC Center in increasing the efficacy of those who work with offenders and victims by creating evidence-based practices related to education and skills building. The EPIC Board has not met since 2017 and the EPIC Center was defunded in fiscal year 20-21, so the Epic Board should be sunset.

### ***Continue the Food Systems Advisory Council.***

Created in 2010, the Advisory Council works to increase access to healthy food and to assist with the growth of local food systems and economies in the Colorado agricultural sector. Since the Advisory Council provides expertise and develops relationships to help ensure the future security of Colorado's food systems, it should be continued.

### ***Continue the Health Equity Commission.***

The purpose of the HEC is to serve as an advisor to the Office of Health Equity, within the Colorado Department of Public Health and Environment, on issues specifically related to alignment, education and capacity-building for state and local health programs and community-based organizations. The HEC provides a valuable service to the community, specifically, achieving health equity for persons in underrepresented populations. Therefore, the HEC should be continued.

### ***Continue the State Noxious Weed Advisory Committee.***

The Noxious Weed Committee provides an essential function linking CDA to the various interests and expertise involved in managing noxious weeds in the state, and it should be continued.

### ***Continue the Sexual Misconduct Advisory Committee.***

The Misconduct Committee was created in response to proposed revisions to rules promulgated under Title IX of the Educational Amendments of 1972. Since the Title IX rules will be revised again soon, the Misconduct Committee should be continued.

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## Background

### Introduction

As part of the sunset review of an advisory committee, the advisory committee that is scheduled to repeal must submit to the Department of Regulatory Agencies, through the Colorado Office of Policy, Research and Regulatory Reform (COPRRR), on or before July 1 of the year preceding the year in which the advisory committee is scheduled to repeal:<sup>1</sup>

- The names of current members of the advisory committee;
- All revenues and all expenditures, including advisory committee expenses, *per diem* paid to members, and any travel expenses;
- The dates all advisory committee meetings were held and the number of members attending the meetings;
- A listing of all advisory proposals made by the advisory committee, together with an indication as to whether each proposal was acted upon, implemented or enacted into statute; and
- The reasons why the advisory committee should be continued.

Importantly, sunset reviews of advisory committees do not, generally, analyze the underlying program to which the committee is expected to render advice or recommendations. If an advisory committee is sunset, the underlying program will continue.

### Sunset Process

As with sunset reviews of programs, agency officials and other stakeholders can submit input regarding an advisory committee through a variety of means, including at [coprrr.colorado.gov](http://coprrr.colorado.gov).

The Colorado Youth Advisory Council, Commission on Criminal and Juvenile Justice, Defense Counsel on First Appearance Grant Program, Evidence-based Practices Implementation for Capacity Advisory Board, Food Systems Advisory Council, Health Equity Commission, Sexual Misconduct Advisory Committee and State Noxious Weed Advisory Committee shall terminate on September 1, 2023, unless continued by the General Assembly. It is the duty of COPRRR to conduct an analysis and evaluation of these advisory committees pursuant to section 2-3-1203, Colorado Revised Statutes.

The purpose of these reviews is to determine whether these committees should be continued for the protection of the public and to evaluate their performance. COPRRR's findings and recommendations are submitted via this report to the legislative committees of reference of the Colorado General Assembly.

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<sup>1</sup> § 2-3-1203(2)(b)(I) and (II), C.R.S.

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# Colorado Youth Advisory Council

## Creation, Mission and Make-Up

The Colorado Youth Advisory Council (COYAC), which is housed in the legislative branch, was created by the General Assembly via House Bill 08-1157. Since its creation, the COYAC statute has been amended several times by the General Assembly. The purpose of COYAC is to examine, validate and discuss the issues, interests and needs affecting Colorado youth. The issues include, but are not limited to: <sup>2</sup>

- Education,
- Employment and economic opportunity,
- Access to state and local government services,
- The environment,
- Behavioral and physical health,
- Safe environments for youth,
- Substance abuse,
- Driver's license requirements,
- Poverty, and
- Increased youth participation in state and local government.

Voting members of COYAC must be between 14 and 19 years of age. COYAC consists of 44 members, and they are as follows:<sup>3</sup>

- Four non-voting legislative members, two must be members of the House of Representatives and two members must be members of the Senate;
- Thirty-five voting members representing each of the State Senate districts in the State of Colorado;
- One voting member representing the Southern Ute Indian Tribe;
- One voting member representing the Ute Mountain Ute Tribe; and
- Three non-voting at-large members to help ensure diversity on COYAC, with an express concern for adequate rural representation.

## Responsibilities of COYAC

The duties and responsibilities of COYAC are as follows:<sup>4</sup>

- Work with any existing and appropriate local and state youth groups to identify the concerns and needs of youth in Colorado and to advise and make oral and

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<sup>2</sup> § 2-2-1302, C.R.S.

<sup>3</sup> § 2-2-1303(1), C.R.S.

<sup>4</sup> § 2-2-1304(1), C.R.S.

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written recommendations to the General Assembly on proposed or pending legislation;

- Work with any existing and appropriate local and state youth groups to collect, analyze and provide information on issues related to youth legislative committees, commissions, task forces and state agencies and departments, as appropriate;
- Consult with any existing local-level youth advisory councils for input and potential solutions on issues related to youth; and
- Set priorities and establish any committees that may be necessary to achieve the goals of COYAC.

## Revenues and Expenditures

In fiscal year 21-22, COYAC received a \$25,000 appropriation from the General Assembly and \$2,900 in donations. In fiscal year 21-22, COYAC's expenditures were \$27,504. Expenditures were for a portion of the COYAC Director's salary, retreat expenses, website/outreach, send-off gifts for COYAC members, transportation, technology, a youth collaborative summit and website improvements.

Also, in fiscal year 20-21, COYAC received a \$25,000 appropriation from the General Assembly and \$5,500 in donations. COYAC's expenditures were \$29,990. Expenditures were for a portion of the COYAC Director's salary, website/outreach, send-off gifts for COYAC members and technology, a youth collaborative summit, legislative interns and website improvements.

## Meetings of COYAC

Table 1 provides the meeting dates for COYAC in fiscal year 21-22, as well as the number of COYAC members in attendance.



**Table 1**  
**COYAC Meetings in Fiscal Year 21-22**

| Meeting Date       | Location | Number of Members in Attendance |
|--------------------|----------|---------------------------------|
| August 10, 2021    | Denver   | 9                               |
| September 18, 2021 | Denver   | 24                              |
| October 9, 2021    | Remote   | 23                              |
| October 28, 2021   | Denver   | 10                              |
| November 18, 2021  | Denver   | 18                              |
| January 12, 2022   | Denver   | 18                              |
| January 27, 2022   | Denver   | 12                              |
| January 30, 2022   | Denver   | 19                              |
| February 3, 2022   | Denver   | 17                              |
| February 16, 2022  | Denver   | 7                               |
| April 4, 2022      | Denver   | 7                               |
| April 7, 2022      | Denver   | 17                              |
| July 9, 2022       | Remote   | 11                              |

Table 1 indicates that an average of 14 COYAC members attended each meeting in fiscal year 21-22.

Table 2 delineates the number of COYAC meetings, as well as the number of COYAC members in attendance in fiscal year 20-21.

**Table 2**  
**COYAC Meetings in Fiscal Year 20-21**

| Meeting Date      | Location | Number of Members in Attendance |
|-------------------|----------|---------------------------------|
| February 19, 2021 | Denver   | 6                               |
| February 21, 2021 | Denver   | 15                              |
| April 6, 2021     | Denver   | 6                               |
| April 12, 2021    | Denver   | 10                              |
| April 21, 2021    | Denver   | 17                              |
| June 28, 2021     | Remote   | 6                               |

Table 2 shows that an average of 10 COYAC members attended each meeting in fiscal year 20-21.

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## Proposals and Their Status

In fiscal year 21-22, COYAC presented the following proposals to legislators at the 2022 summer interim committee:

- Disciplinary equity in education: co-creation and accountability in restorative planning;
- Increasing completion of financial aid applications;
- Increasing the number of licensed therapists for youth;
- Reforming intervention response to substance abuse in secondary schools;
- Youth participation in updating educational standards;
- Youth public health: eating disorders and weight; and
- Youth sexual health: human immunodeficiency virus (HIV) education and prevention.

In fiscal year 20-21, COYAC recommended three policy proposals, which were ultimately enacted into legislation during the 2022 legislative session. The policy proposals were for the following subjects:

- Updating COYAC (Senate Bill 22-014),
- Providing financial assistance for higher education expenses for children who have been in foster care (Senate Bill 22-008), and
- Promoting crisis services to students (House Bill 22-1052).

Senate Bill 22-014 (SB 014), among other things, repealed the requirement to appoint COYAC co-chairs and vice-chairs and requires COYAC to adopt written bylaws setting forth a leadership structure for COYAC. SB 014 also requires that two of the mandatory four COYAC meetings per year take place in person.

Senate Bill 22-008, among other things, requires Colorado institutions of higher education to provide financial assistance for higher education expenses to Colorado residents who have been in foster care. The financial assistance is for the remaining balance of a student's total cost of attendance in excess of the amount of any private, state or federal financial assistance received by the student.

House Bill 22-1052, among other things, requires student identification cards issued to public school students to contain the phone number, website and text talk number for the 24-hour phone crisis service center (Colorado crisis services) and Safe2Tell. If a public school does not issue identification cards, it is required to display outreach material from Colorado crisis services and send that information to parents and guardians at the beginning of each school year.

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## Reasons to Continue COYAC

As highlighted in this sunset report, COYAC is actively participating in the legislative process by recommending policy proposals to the General Assembly concerning issues related to the Colorado youth population. Also, COYAC provides a unique and valuable experience for Colorado youth to actively engage in the political process and to improve the quality of life for Colorado's youth.

## Analysis and Recommendation

COYAC provides a valuable service by actively engaging in the legislative process by recommending changes and improvements for issues affecting the youth population in Colorado. COYAC continues to meet regularly and explore issues that would improve the quality of life related to the Colorado youth population.

Therefore, the General Assembly should continue COYAC.

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# Commission on Criminal and Juvenile Justice

## Creation, Mission and Make-Up

In 2007, the Commission on Criminal and Juvenile Justice (Commission) was created in the Colorado Department of Public Safety (DPS) as a result of the passage of House Bill 07-1358 with the mission to,<sup>5</sup>

...enhance public safety, to ensure justice, and to ensure protection of the rights of victims through the cost-effective use of public resources. The work of the Commission will focus on evidence-based recidivism reduction initiatives and the cost-effective expenditure of limited criminal justice funds.

The Commission is comprised of the following 29 voting members:<sup>6</sup>

- The Executive Director from the Department of Public Safety (DPS) or their designee;
- The Executive Director from the Department of Corrections (DOC) or their designee;
- The Executive Director from the Department of Higher Education or their designee;
- The Executive Director from the Department of Human Services or their designee;
- The Executive Director of the Colorado District Attorney's Council or their designee;
- The Attorney General or their designee;
- The State Public Defender or their designee;
- The Chairperson of the State Board of Parole or their designee;
- The Chairperson of the Juvenile Parole Board or their designee;
- One representative that is an elected district attorney, designated by the District Attorney's Council;
- Two representatives from the Colorado Judicial Branch who are appointed by the Chief Justice of the Colorado Supreme Court, one of whom must be a current or retired judge;
- Four representatives of the Colorado General Assembly, including:
  - One member who is appointed by the Speaker of the House of Representatives;
  - One member who is appointed by the Minority Leader of the House of Representatives;
  - One member who is appointed by the President of the Senate; and
  - One member who is appointed by the Minority Leader of the Senate.
- Thirteen representatives who are appointed by the Governor, including:
  - One representative of a police department;

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<sup>5</sup> § 16-11.3-103(1), C.R.S.

<sup>6</sup> § 16-11.3-102(2)(a), C.R.S.

- 
- One representative of a sheriff's department;
  - One representative who is an expert in juvenile justice issues;
  - One representative who is a county commissioner;
  - One representative who is a criminal defense attorney;
  - One representative of a victims' rights organization;
  - One representative who is a community corrections board member, community corrections provider, or a behavioral, mental health, or substance use disorder provider;
  - One representative who is a victim with demonstrated knowledge of the criminal justice system and its impacts;
  - One representative who is a former offender and who has demonstrated knowledge of the criminal justice system and its impacts;
  - One representative from a non-profit organization that represents municipalities;
  - One representative who is a victims' advocate; and
  - Two representatives who are appointed at large.

Additionally, the Director of the Division of Criminal Justice (DCJ) within DPS is required to serve as a non-voting member.<sup>7</sup>

All appointed members serve terms that are no more than three years in length, and no appointed member can serve for more than two consecutive full terms, in addition to any partial terms. Appointments are staggered to ensure that not more than 12 appointments expire in the same year.<sup>8</sup>

In addition, the Governor is authorized to select both the chairperson and vice-chairperson among Commission members.<sup>9</sup>

## Responsibilities of the Commission

The Commission is tasked by statute with duties relating to recidivism reduction and analysis, including:<sup>10</sup>

- Collecting evidence-based data regarding sentencing practices and policies and conducting analysis;
- Investigating the alternatives to incarceration, recidivism, recidivism reduction initiatives, and cost-effective crime prevention programs;
- Reporting annual findings and recommendations, including any evidence-based data and analysis;
- Evaluating and studying outcomes of implemented Commission recommendations;

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<sup>7</sup> § 16-11.3-102(2)(b), C.R.S.

<sup>8</sup> § 16-11.3-102(3), C.R.S.

<sup>9</sup> § 16-11.3-102(4)(a), C.R.S.

<sup>10</sup> § 16-11.3-103(2), C.R.S.

- 
- Conducting and reviewing studies to include work compiled by other states, and to make additional recommendations regarding the practices and policies of the criminal and juvenile justice systems;
  - Working with established state boards, commissions, or task forces that also study or review criminal justice-related issues; and
  - Studying whether current statutes address child and youth abuse that may occur in a facility, and to issue recommendations concerning any identified gaps in statute that may need to be addressed.

The Commission is further required to execute its duties and functions in the same manner as if it were transferred to the Department of Public Safety as a Type 2 transfer.<sup>11</sup>

In consultation with DOC, DCJ must provide resources for the Commission including:<sup>12</sup>

- Research,
- Analysis,
- Data collection, and
- Publication of the Commission's reports.

Further, the Commission may request that the Office of Legislative Legal Services provide a staff member to attend Commission meetings.<sup>13</sup>

The Commission is also required to develop a task force (also known as the Community Corrections Task Force) to present findings and recommendations to the Commission regarding whether to improve access to community corrections programs for individuals who have been convicted of misdemeanors. The findings and recommendations must include:<sup>14</sup>

- Analysis of the population of individuals convicted of misdemeanors, including factors such as age, gender, race, and ethnicity;
- Summarization of services offered by community corrections programs that may be beneficial to individuals convicted of misdemeanors;
- Determination of individuals who would benefit from services provided by community corrections programs based on risk assessment;
- Summarization of the ability to provide services to individuals who are convicted of misdemeanors that align with their assessed risk utilizing existing community corrections program resources;
- Development of parameters for individuals convicted of misdemeanors to access resources through both residential and non-residential community corrections programs;
- Description of the costs that an individual convicted of a misdemeanor is responsible for within community corrections programs;

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<sup>11</sup> § 16-11.3-102(1)(b), C.R.S.

<sup>12</sup> § 16-11.3-103(5)(a), C.R.S.

<sup>13</sup> § 16-11.3-103(5)(b), C.R.S.

<sup>14</sup> § 16-11.3-103.3(1), C.R.S.

- 
- Determination of what funding is required for community corrections programs to serve individuals convicted of misdemeanors; and
  - Determination regarding what changes, legislative or otherwise, are needed for community corrections programs to better serve individuals convicted of misdemeanors.

The task force must convene on or before July 29, 2022, and task force members must be selected by the chairperson of the Commission and may include members of the Commission as well as interested members of the community. The chairperson must further ensure that the composition of the task force is geographically, racially, and ethnically diverse and represents the communities most impacted by the criminal and juvenile justice system.<sup>15</sup>

## Commission Structure

The Commission currently has several task forces and subcommittees to address specific topics including:

- Community Corrections Task Force<sup>16</sup> - This task force began meeting in July 2022 as was required by statute to address community corrections-related topics including improving access to community corrections programs for individuals convicted of misdemeanor offenses;
- Legislative Subcommittee<sup>17</sup> - This subcommittee began meeting in November 2008, and is comprised of six current members of the Commission appointed by the Commission Chair to, among other things, review bill drafts and amendments to ensure consistency with Commission recommendations;
- Pretrial Release Task Force<sup>18</sup> - This task force was established in June 2017 and has been on hiatus since June 2020. The task force addresses issues including, but not limited to, the costs and resources associated with pretrial supervision and communication between pretrial services, courts, prosecutors, and defense attorneys; and
- Sentencing Reform Task Force<sup>19</sup> - This task force began meeting in September 2020 and addresses a variety of sentencing-related topics. The task force also delegates work to four additional subgroups, including the Sentence Progression Working Group, the Sentence Structure Working Group, the Sentencing Alternatives/Decisions and Probation Working Group, and the Parole Working Group.

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<sup>15</sup> § 16-11.3-103.3(2), C.R.S.

<sup>16</sup> Commission on Criminal and Juvenile Justice. *Community Corrections Task Force [2022]*. Retrieved August 26, 2022, from [ccjj.colorado.gov/ccjj-cctf2022](http://ccjj.colorado.gov/ccjj-cctf2022)

<sup>17</sup> Commission on Criminal and Juvenile Justice. *Legislative Subcommittee*. Retrieved August 26, 2022, from [ccjj.colorado.gov/ccjj-legsubc](http://ccjj.colorado.gov/ccjj-legsubc)

<sup>18</sup> Commission on Criminal and Juvenile Justice. *Pretrial Release Task Force*. Retrieved August 26, 2022, from [ccjj.colorado.gov/ccjj-prtf](http://ccjj.colorado.gov/ccjj-prtf)

<sup>19</sup> Commission on Criminal and Juvenile Justice. *Sentencing Reform Task Force*. Retrieved August 26, 2022, from [ccjj.colorado.gov/ccjj-srtf](http://ccjj.colorado.gov/ccjj-srtf)

## Revenues and Expenditures

The Commission does not generate any revenue. Members of the Commission meet on a voluntary basis and receive no compensation but may be reimbursed for travel expenses related to the performance of their duties.

The Commission and DPS may accept gifts, donations, grants, or in-kind donations from both public and private sources. Any resources received are transmitted to the state treasurer and are then credited to the Colorado Commission on Criminal and Juvenile Justice Cash Fund (Cash Fund). Any interest or income derived from the Cash Fund are credited back to the Cash Fund, and any unencumbered money left in the Cash Fund at the end of the fiscal year remain in the fund and are not transmitted to the General Fund.<sup>20</sup>

DPS is not required to solicit any grants, gifts, or donations for the Commission.<sup>21</sup>

Table 3 outlines the total revenue and expenditures of the Commission for fiscal years 20-21 and 21-22.

**Table 3**  
**Total Commission Revenue and Expenditures - FY 20-21 and FY 21-22**

| Fiscal Year 20-21                  |                    | Fiscal Year 21-22                  |                     |
|------------------------------------|--------------------|------------------------------------|---------------------|
| Revenue Type                       | Total Revenue      | Revenue Type                       | Total Revenue       |
| General Fund                       | \$91,737.39        | General Fund                       | \$103,579.78        |
| Expenditure Type                   | Total Expenditures | Expenditure Type                   | Total Expenditures  |
| Professional Services              | \$90,900.62        | Professional Services              | \$97,500.00         |
| Communication Charges              | \$751.74           | Communication Charges              | \$231.61            |
| Printing and Reproduction Services | \$37.41            | Printing and Reproduction Services | \$339.62            |
| Supplies, Materials, and Postage   | \$1.85             | Supplies, Materials, and Postage   | \$5,266.34          |
| Official Functions                 | \$45.77            | Official Functions                 | \$242.21            |
| <b>Total</b>                       | <b>\$91,737.39</b> | <b>Total</b>                       | <b>\$103,579.78</b> |

<sup>20</sup> § 16-11.3-104(1), C.R.S.

<sup>21</sup> § 16-11.3-104(2), C.R.S.



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## Meetings of the Commission

Table 4 provides the Commission meeting dates and the number of members in attendance at each meeting.

**Table 4**  
**Commission Meetings**  
**Fiscal Years 20-21 through 21-22**

| Meeting Date       | Number of Members in Attendance |
|--------------------|---------------------------------|
| July 10, 2020      | 25                              |
| August 14, 2020    | 24                              |
| September 11, 2020 | 27                              |
| October 9, 2020    | 26                              |
| November 13, 2020  | 23                              |
| December 11, 2020  | 24                              |
| January 8, 2021    | 25                              |
| February 12, 2021  | 24                              |
| March 12, 2021     | 27                              |
| April 9, 2021      | 25                              |
| May 14, 2021       | 22                              |
| June 11, 2021      | 15                              |
| August 13, 2021    | 23                              |
| October 8, 2021    | 20                              |
| November 12, 2021  | 22                              |
| December 10, 2021  | 23                              |
| January 14, 2022   | 22                              |
| January 28, 2022   | 18                              |
| February 11, 2022  | 20                              |
| April 8, 2022      | 21                              |
| May 13, 2022       | 19                              |
| June 10, 2022      | 14                              |

The full Commission typically meets on a monthly basis, with an average attendance from fiscal year 20-21 through 21-22 of approximately 22 members per meeting.

The Sentencing Reform Task Force met a total of 64 times during the years reviewed, on at least a monthly basis, and the Legislative Subcommittee met five times during the years reviewed on an as-needed basis.

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## Proposals and Their Status

The Commission is required to provide reports on an annual basis to the Governor, the Speaker of the House of Representatives, the President of the Senate, and the Chief Justice of the Colorado Supreme Court and provide recommendations based upon evidence-based analysis of Colorado's criminal justice system.<sup>22</sup>

Fiscal year 20-21 recommendations of the Commission and the status regarding the implementation of each recommendation include:

- Revise misdemeanor sentencing and offenses - This recommendation included amending and removing statutory provisions to update the current sentencing scheme for misdemeanors, align current misdemeanors, and reclassify certain felony offenses. As a result of this recommendation, Senate Bill 21-271 was crafted to mirror the Commission's recommendations and was passed by the General Assembly during the 2021 legislative session; and
- Update the standard conditions of parole and revise additional conditions of parole - This recommendation included action items for the Colorado State Board of Adult Parole and recommended additional statutory revisions. This recommendation was made toward the end of the 2022 legislative session and may be addressed in future years by the Commission.

Fiscal year 21-22 recommendations of the Commission and the status regarding the implementation of each recommendation include:

- Develop individualized responses to violations of probation - This recommendation included statutory revisions to update best practices that serve individuals with deferred sentences and those on probation, especially when dealing with substance use disorders through the utilization of rehabilitation and reparative justice methodology. As a result of this recommendation, House Bill 22-1257 was crafted to mirror the Commission's recommendations and was passed by the General Assembly during the 2022 legislative session;
- Revise penalties related to unauthorized practice in a variety of professions and occupations - This recommendation included additional statutory language within a variety of professional practice acts that practicing without a license would be a class 6 felony due to the risk to public safety. House Bill 22-1257 also included this language and was passed by the legislature in 2022;
- Revise criminal penalties for theft of public benefits - This recommendation included amending statutory provisions to provide additional clarification that the penalty for related thefts is based upon the amount of money that the individual illegally received in public benefits. This language was also included in House Bill 22-1257 which was passed by the legislature in 2022;
- Include prison as an intermediate sanction confinement facility - This recommendation included authorizing the Executive Director of the Colorado

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<sup>22</sup> § 16-11.3-101(2), C.R.S.

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Department of Corrections to confine a parolee in prison facilities as an intermediate sanction for up to 14 days without the requirement to file a revocation of parole. The recommendation was also included in House Bill 22-1257 which was passed by the legislature in 2022;

- Amend the felony offenses eligible for the crime of possession of weapons by previous offenders, which was based upon issues of public safety. This recommendation was also incorporated into House Bill 22-1257, which was passed by the General Assembly in 2022; and
- Increase telehealth access for mental health services - This recommendation details that state agencies should develop policies and procedures to increase access to telehealth regarding mental health services for individuals under supervision within the criminal justice system. This recommendation has not yet been implemented.

### **Reasons to Continue the Commission**

The Committee provides important evaluation on significant issues facing the criminal justice system. Additionally, any recommendations made by the Commission require a two-thirds affirmative majority for passage, which demonstrates that the Commission's recommendations receive broad support from a wide variety of stakeholders through their participation in the work of the Commission.

Moreover, the Commission has further work to perform. For example, the Commission indicated in its 2021 annual report that future work is planned regarding additional revisions to the felony sentencing structure, to be carried out by the Sentence Structure Working Group. Additionally, the Sentencing Alternatives/Decisions and Probation Working Group continues to craft additional recommendations in the development of the Commission's annual report, expected to be released in the Fall of 2022.

### **Analysis and Recommendation**

The Commission is comprised of legislators, state agency representatives, and a variety of public and private representatives to provide important ongoing work and recommendations for the reduction of recidivism, reformation of the sentencing structure, and the efficient allocation of criminal justice funding. Therefore, the General Assembly should continue the Commission.

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## Defense Counsel on First Appearance Grant Program

### Creation, Mission and Make-Up

In 2018, the Defense Counsel on First Appearance Grant Program (DCFA Grant Program) was established in the Division of Local Government in the Department of Local Affairs (DOLA). The purpose of the DCFA Grant Program is to reimburse local governments for costs associated with providing defense counsel to defendants on their first appearance in municipal court. Reimbursements may cover all the costs or a portion of the costs.<sup>23</sup>

As of July 1, 2018, if a defendant is in custody on a charge that may result in a sentence of incarceration, section 13-10-114.5, C.R.S., requires a municipal court to appoint counsel to represent a defendant on the first appearance in court. The appointment of counsel must continue until the defendant is released from custody. A defendant who is released from custody may also apply for court-appointed counsel. If the defendant is indigent and faces incarceration, the court must appoint counsel.<sup>24</sup>

The DCFA Grant Program was established for the purpose of reimbursing municipal courts for complying with section 13-10-114.5, C.R.S.

### Responsibilities of DOLA

Section 24-32-123(1)(b), C.R.S., requires DOLA to solicit and review grant applications from local governments and award grant money to local governments.

The Executive Director of DOLA may adopt any necessary rules to administer the DCFA Grant Program. The rules may establish an application process and any criteria for awarding grants.<sup>25</sup> DOLA has implemented the DCFA Grant Program and established internal processes and procedures to administer it.

As previously stated, according to statute, if a municipal court appoints counsel for a defendant on their first appearance in court and the charge may result in incarceration, it may apply to be reimbursed for the costs associated with appointing counsel. The Executive Director has administratively established criteria for awarding grants.

### Revenues and Expenditures

The DCFA Grant Program is funded by General Fund appropriations.<sup>26</sup> In order to determine the amount of an award, DOLA multiplies the reimbursement rate by the number of eligible cases submitted by the applicant.

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<sup>23</sup> § 24-32-123(1)(a), C.R.S.

<sup>24</sup> § 13-10-114.5, C.R.S.

<sup>25</sup> § 24-32-123(3), C.R.S.

<sup>26</sup> § 24-32-123(2), C.R.S.

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In fiscal year 20-21, the General Assembly appropriated \$1,000,000 to the DCFA Grant Program, and in fiscal year 21-22, it appropriated \$1,309,520 to it.

### Reimbursement Requests and Their Status

DOLA encourages municipal courts that meet the eligibility requirements to apply to the program. Once DOLA approves an application and an award and grant agreement is completed, a municipal court may submit requests for reimbursement to DOLA through an online portal that is open throughout the year. DOLA issues Notices of Funding Availability each year. Municipal courts may submit applications between April and May each year, and DOLA reports funding decisions at the end of each application cycle.

Requests for reimbursement must:

- Provide supporting documentation of any expenses for the provision of first appearance defense counsel; and
- Include the case number, total number of hours requested, total number of cases, project information and additional expenses<sup>27</sup> being requested.

The reimbursement rate established by DOLA is \$100 per hour.

According to DOLA, all eligible local governments must submit quarterly reimbursement requests or status reports for costs associated with the provision of defense counsel. Requests that are inaccurate or missing information based on the requirements set forth in the eligibility criteria detailed in section 24-32-123, C.R.S. are returned to the grantee for corrections and resubmission. However, in fiscal years 20-21 and 21-22, all requests for reimbursements for providing defense counsel, as required in statute, were processed.

Table 5 illustrates, in fiscal years 20-21 and 21-22, the municipal courts that were reimbursed for providing defense counsel, in accordance with section 13-10-114.5, C.R.S., and the amounts reimbursed in each fiscal year.

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<sup>27</sup> Additional expenses refer to administrative costs associated with the provision of legal counsel to defendants at their first appearance in municipal court, such as translation fees.

**Table 5  
Reimbursements**

| <b>Municipality</b> | <b>FY 20-21</b>  | <b>FY 21-22</b>  |
|---------------------|------------------|------------------|
| Arvada              | \$1,996          | \$5,487          |
| Aurora              | \$89,148         | \$108,132        |
| Commerce City       | \$300            | \$625            |
| Cortez Court        | \$160            | N/A*             |
| Denver              | \$253,290        | \$241,840        |
| Englewood           | \$10,425         | \$19,456         |
| Fort Collins        | \$6,030          | \$11,712         |
| Grand Junction      | \$503            | N/A*             |
| Greeley Court       | \$175            | \$804            |
| Hudson              | \$1,050          | \$750            |
| Lakewood            | \$18,293         | \$28,523         |
| Littleton           | \$7,765          | \$16,950         |
| Longmont            | \$2,504          | \$2,642          |
| Loveland            | \$1,268          | \$1,650          |
| Northglenn          | \$390            | \$1,333          |
| Pueblo              | \$3,983          | \$24,306         |
| Rifle               | \$9,464          | \$2,750          |
| Sheridan            | \$2,625          | \$5,625          |
| Thornton            | \$4,800          | \$14,400         |
| Westminster         | \$4,204          | \$18,419         |
| Wheat Ridge         | \$2,032          | \$9,694          |
| <b>Total</b>        | <b>\$420,405</b> | <b>\$515,098</b> |

\*Not applicable since there was no open contract during this fiscal year.

### **Reasons to Continue the DCFA Grant Program**

The DCFA Grant Program helps to ensure that the State of Colorado continues to maintain a fair justice system for any and all defendants who face the possibility of incarceration. The DCFA Grant Program offers financial support to municipal courts that provide public defense for defendants who are facing incarceration and may not have the means to secure private counsel. Doing this helps to alleviate the financial burden on courts for providing such counsel, encouraging equity with individual courtroom proceedings for participating municipal courts statewide.

DOLA continues to conduct outreach to local governments, and it anticipates that these efforts will increase participation.

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## Analysis and Recommendation

During the first appearance in municipal court, a defendant's liberty may be at risk. In Colorado, municipal courts are required to provide counsel to a defendant who is in custody on a charge that may result in a sentence of incarceration, and the appointment of counsel must continue until the defendant is released from custody. A defendant who is released from custody may also apply for court-appointed counsel, and if the defendant is indigent and faces incarceration, the court must appoint counsel.

The requirement to provide defendants who face incarceration with counsel before a municipal court supports an equitable justice system, and the DCFA Grant Program helps municipal courts to cover the costs of complying with this requirement. For this reason, the General Assembly should continue the DCFA Grant Program.

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# Evidence-based Practices Implementation for Capacity Advisory Board

## Creation, Mission and Make-Up

The Evidence-based Practices Implementation for Capacity Resource Center (EPIC Center) and Advisory Board (EPIC Board) were created in the Department of Public Safety (DPS) via House Bill 13-1129 to “assist agencies serving juvenile and adult populations to develop and sustain effective implementation frameworks to support the use of evidence-based practices.”<sup>28</sup>

Intended as a collaborative effort, the EPIC Center was created to increase the efficacy of those who work with offenders and victims by creating an educational, skill-building and consultation resource center to support the implementation of evidence-based practices.<sup>29</sup>

The EPIC Board was created to support the EPIC Center in creating and maintaining internal, sustainable structural implementation components of evidence-based practices.<sup>30</sup>

Importantly, this sunset review is confined to the EPIC Board only, and not the EPIC Center.

The EPIC Board comprises five members:<sup>31</sup>

- Executive Director of the Department of Corrections, or their designee;
- Executive Director of the Department of Human Services (DHS), or their designee;
- Executive Director of DPS, or their designee;
- Director of DPS’s Division of Criminal Justice (DCJ), or their designee; and
- Director of the Judicial Branch’s Division of Probation Services, or their designee.

Additionally, the Director of DCJ may appoint additional members as appropriate,<sup>32</sup> and all members serve without compensation and without reimbursement for expenses.<sup>33</sup>

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<sup>28</sup> § 24-33.5-514(1), C.R.S.

<sup>29</sup> § 24-33.5-514(1), C.R.S.

<sup>30</sup> § 24-33.5-514(2)(f), C.R.S.

<sup>31</sup> § 24-33.5-514(2)(c)(I), C.R.S.

<sup>32</sup> § 24-33.5-514(2)(c)(II), C.R.S.

<sup>33</sup> § 24-33.5-514(2)(d), C.R.S.



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## Responsibilities of the EPIC Board

The EPIC Board's sole task is to support the EPIC Center in creating and maintaining internal, sustainable structural implementation components of evidence-based practices.<sup>34</sup>

## Revenues and Expenditures

The EPIC Center was defunded effective fiscal year 20-21. As a result, there were no revenues or expenditures associated with either the EPIC Center or the EPIC Board in either fiscal year 20-21 or 21-22, which are the two fiscal years this sunset review is tasked with examining.

## Meetings of the EPIC Board

The EPIC Board was required to meet four times per calendar year. However, since the EPIC Center was defunded in fiscal year 20-21, EPIC Board did not meet in either fiscal year 20-21 or 21-22.

In fact, the EPIC Board stopped meeting even before the EPIC Center was defunded. Over time, some of the agencies represented on the EPIC Board developed their own implementation strategies and programs and had stopped participating in the EPIC Board. As a result, the remaining members grew reluctant to attend EPIC Board meetings, and, as such, the EPIC Board has not met since 2017.

## Proposals and Their Status

Since the EPIC Board has not met since 2017, it put forward no recommendations or proposals in either fiscal year 20-21 or 21-22, which are the two fiscal years this sunset review is tasked with examining.

## Reasons to Sunset the EPIC Board

Created in 2013 to “assist agencies serving juvenile and adult populations to develop and sustain effective implementation frameworks to support the use of evidence-based practices,”<sup>35</sup> by 2020, the EPIC Center's focus had shifted outside of the criminal justice arena. It started working on projects involving DHS, the Department of Homeland Security and Emergency Management and a non-profit organization, as well as on initiatives involving equity, diversity and inclusivity.

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<sup>34</sup> § 24-33.5-514(2)(f), C.R.S.

<sup>35</sup> § 24-33.5-514(1), C.R.S.

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Additionally, the EPIC Board has not met since 2017.

As such, the General Assembly, following the recommendations of both DCJ and the Joint Budget Committee, defunded the EPIC Center, thereby rendering the EPIC Board moot.

### **Analysis and Recommendation**

The EPIC Board has not met since 2017, and since the EPIC Center has been defunded since fiscal year 20-21, with no plans to restore funding, there is nothing left for the EPIC Board to do. As a result, the General Assembly should sunset the EPIC Board.

Importantly, this sunset review is confined to the EPIC Board only. The question of whether to repeal the statutes creating the EPIC Center lies beyond the scope of this sunset review.

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# Colorado Food Systems Advisory Council

## Creation, Mission and Make-Up

In 2010, the General Assembly created the Colorado Food Systems Advisory Council (Advisory Council) to focus, predominantly, on increasing access for all Coloradans to healthy food and to assist with the growth of local food systems and economies in the Colorado agricultural sector.<sup>36</sup>

In 2019, the General Assembly passed House Bill 19-1202, which transferred the Advisory Council from the Colorado Department of Agriculture (CDA) to its current location within Colorado State University (CSU).

The Advisory Council is comprised of 22 members, appointed by various appointing authorities.

Six Advisory Council members are appointed in the following manner:<sup>37</sup>

- One member representing the Colorado Department of Education (CDE), appointed by the Commissioner of Education;
- One member representing CDA, appointed by the Commissioner of Agriculture;
- One member representing the Colorado Department of Public Health and Environment (CDPHE), appointed by that department's Executive Director;
- One member representing the Colorado Department of Human Services (DHS), appointed by that department's Executive Director;
- One member representing the CSU Extension, appointed by the Extension's Director; and
- One member representing the Colorado Office of Economic Development, appointed by that office's Director.

The remaining 16 Advisory Council members are appointed by the Governor or their designee in the following manner:<sup>38</sup>

- Two members from different sectors of agricultural production, at least one of whom must also sell agricultural products to a public school or public school district, and one of whom is a specialty crop seller;
- Two members who are recipients of a federal food assistance program, at least one of whom is a recipient of the Supplemental Nutrition Assistance Program;
- Two members who represent food retailers or food wholesalers, one of whom must also be a direct market retailer;
- One member representing a statewide anti-hunger organization;

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<sup>36</sup> § 23-31-1101(1)(b), C.R.S.

<sup>37</sup> § 23-31-1102(2)(a), C.R.S.

<sup>38</sup> § 23-31-1102(2)(b), C.R.S.

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- Two members who have knowledge of federal agencies, one of whom possesses expertise in nutrition and food service programs and one of whom possesses expertise in community and economic development programs or rural and regional development programs;
  - One member representing an academic institution with specialization in agriculture, economic systems, or health care;
  - Two members who represent institutional procurement, one of whom is from a health-care setting and one of whom is from an educational setting;
  - One member representing a local, nonprofit, community organization that works with local food systems or farm-to-school programs;
  - One member representing a food hub or food distributor;
  - One member who possesses expertise in nutrition, preferably a registered dietician or a physician licensed in Colorado; and
  - One member representing a statewide healthy food systems organization.

All members serve terms of three years, except that the Governor or their designee appoints six Advisory Council members to serve two-year terms and four members to serve four-year terms. Any appointing authority may reappoint a member to serve one additional three-year term.<sup>39</sup>

Appointing authorities are also directed to ensure whenever possible that the membership of the Advisory Council contains social and geographic diversity and a balance of expertise including governmental and nongovernmental perspectives regarding Colorado's food systems.<sup>40</sup>

Due to the specificity in the requirements mandated by statute for new Advisory Council member appointments, staff has indicated that it can be challenging to fill member seats. In order to address demographic and geographic diversity of Advisory Council members more effectively, the Advisory Council has recently implemented a new process for the recruitment, review, and recommendation for new member appointments.

## Responsibilities of the Advisory Council

The purpose of the Advisory Council is, among other things, to:<sup>41</sup>

- Coordinate and collaborate with state and federal educational institutions, nongovernmental organizations, agricultural producers, and consumers to provide interconnectedness among state and federal agencies, as well as to provide agricultural producers with additional market opportunities;

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<sup>39</sup> § 23-31-1102(4), C.R.S.

<sup>40</sup> § 23-31-1102(3), C.R.S.

<sup>41</sup> § 23-31-1103(1), C.R.S.

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- Conduct research regarding best practices for nutrition and food assistance, farm-to-school programs, institutional procurement, and market development;
  - Collaborate with local and regional food policy councils within Colorado, and to provide additional resources to policy councils; and
  - Explore methods for the assessment and collection of data regarding Advisory Council activities.

Further, CDA, CDE, DHS and CDPHE are directed to cooperate with the Advisory Council in the performance of its official duties.<sup>42</sup>

### Subcommittees of the Advisory Council

The Advisory Council currently has four working groups to address specific topics related to strengthening the state's local and regional food systems, including:<sup>43</sup>

- Conserving Agricultural Lands and Water,
- Universal School Meals,
- Federal and State Funding, and
- Institutional Procurement.

Advisory Council members lead and identify subject matter for working groups and all working groups are open for participation by individuals who are not members of the Advisory Council on a voluntary basis.

### Revenues and Expenditures

The Advisory Council is authorized to accept grants, gifts, and donations as long as these funds are consistent with the purpose of the Advisory Council and the laws of the state of Colorado. Additionally, the Advisory Council may accept and expend federal funding when available.<sup>44</sup>

Members of the Advisory Council meet on a voluntary basis but may receive reimbursement from the Food Systems Advisory Council Fund for travel expenses incurred.<sup>45</sup> If staffing is needed and funding is available, staff from Colorado State University may staff the Advisory Council.<sup>46</sup> Funds may also be utilized to fund programs that are initiated by the Advisory Council.<sup>47</sup>

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<sup>42</sup> § 23-32-1103(2), C.R.S.

<sup>43</sup> Colorado Food Systems Advisory Council. *Working Groups*. Retrieved August 25, 2022, from [cofoodsystemscouncil.org/working-groups/](http://cofoodsystemscouncil.org/working-groups/)

<sup>44</sup> § 23-31-1105(1), C.R.S.

<sup>45</sup> § 23-31-1102(8), C.R.S.

<sup>46</sup> § 23-31-1102(9), C.R.S.

<sup>47</sup> § 23-31-1105(2)(c), C.R.S.

Any funding received through grants, gifts or donations must be transmitted to the State Treasurer who will credit it to the Food Systems Advisory Council Fund. Any funds not expended by the Advisory Council may be invested by the State Treasurer in a method provided by law.<sup>48</sup>

Table 6 outlines the total revenue and expenditures of the Advisory Council for fiscal years 20-21 and 21-22.

**Table 6**  
**Total Advisory Council Revenue and Expenditures - FY 20-21 and FY 21-22**

| Fiscal Year 20-21                     |                    | Fiscal Year 21-22                      |                    |
|---------------------------------------|--------------------|--|--------------------|
| Revenue Type                          | Total Revenue      | Revenue Type                           | Total Revenue      |
| General Fund                          | \$107,619          | General Fund                           | \$107,619          |
| Expenditure Type                      | Total Expenditures | Expenditure Type                       | Total Expenditures |
| Staffing                              | \$70,576           | Staffing                               | \$69,252           |
| Communications                        | \$4,875            | Communications                         | \$9,655            |
| Consultants                           | \$24,828           | Consultants                            | \$11,781           |
| Supplies, Travel and Related Expenses | \$160              | Supplies, Travel, and Related Expenses | \$330              |
| <b>Total</b>                          | <b>\$100,439</b>   | <b>Total</b>                           | <b>\$91,018</b>    |

Due to the COVID-19 pandemic, meetings of the Advisory Council were moved to a virtual format and expenditures regarding Advisory Council member expenditures were not incurred during this time. According to Advisory Council staff, there was a five-month gap in staffing during fiscal year 21-22 which decreased staffing expenses.

The Advisory Council employs staff to conduct research on an as needed basis to complete specific research projects such as issue briefs, and has contracted with consultants to complete strategic planning, outreach strategies, and increased communications. Some consultants are currently engaged in work on behalf of the Advisory Council and will not complete work until fiscal year 22-23. These costs incurred will be reflected in the fiscal year 22-23 budget.

### Meetings of the Advisory Council

Table 7 provides the Advisory Council meeting dates and the number of members in attendance at each meeting.

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<sup>48</sup> § 23-31-1105(1), C.R.S.

**Table 7**  
**Advisory Council Meetings**  
**Fiscal Years 20-21 through 21-22**

| Meeting Date      | Number of Members in Attendance |
|-------------------|---------------------------------|
| July 30, 2020     | 19                              |
| October 1, 2020   | 18                              |
| January 21, 2021  | 21                              |
| March 25, 2021    | 16                              |
| June 24, 2021     | 15                              |
| July 30, 2021     | 12                              |
| December 16, 2021 | 18                              |
| February 25, 2022 | 18                              |
| May 19, 2022      | 17                              |

The Advisory Council typically meets in person on a quarterly basis and meetings are open to the public, with an average attendance from fiscal year 20-21 through 21-22 of approximately 17 members per meeting.

### Proposals and Their Status

During calendar years 2021 and 2022, the Advisory Council published multiple issue briefs, which explored a variety of food systems-related topics, including:<sup>49</sup>

- *Mid-scale to Small Meat Value Chain,*
- *Agricultural Workers Brief,*
- *Putting Stimulus Dollars to Work,*
- *Agricultural Lands and Water,*
- *State Procurement Policy,* and
- *Universal School Meals.*

As a result of the research and development undertaken for these issue briefs, the Advisory Council has proposed the following recommendations, including, but not limited to:

- *Recommendation - Land and water conservation:*
  - Expansion of the flexibility and accessibility of public conservation funding;
  - Enhancement of water and land mapping tools;

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<sup>49</sup> Colorado Food Systems Advisory Council. *Resource Archive*. Retrieved August 25, 2022, from [cofoodsystemscouncil.org/archive/](http://cofoodsystemscouncil.org/archive/)

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- Development of explicit goals as a part of local, state, and regional comprehensive plans relating to high-value agricultural land and water; and
  - Exploration of the potential impacts of regulations that limit agricultural land control and ownership.
  - These recommendations have not yet been implemented.
- *Recommendation - Universal school meals:*
    - Providing leadership in Colorado for the expansion of research and policy development and implementation at both state and federal levels regarding universal access to school meals for Colorado students.
    - *Actions taken:*
      - Findings from the Advisory Council’s issue brief entitled, *Universal School Meals* was cited in the development of Senate Bill 22-087 which did not pass, followed by a subsequent initiative on the ballot this November related to the issue.
- *Recommendation - Improvement of health food retail access:*
    - Increase awareness among agricultural partners regarding the Special Supplemental Nutrition Assistance Program for Women, Infants and Children (WIC), the Supplemental Nutrition Assistance Program (SNAP), and other associated incentive programs; and
    - Evaluate opportunities for expansion into additional food markets and corner stores.
    - *Actions taken:*
      - The Blueprint to End Hunger piloted a grant program for small retailers to cover operating costs of stocking fresh foods, as well as the expansion of infrastructure needed to accept SNAP and WIC payments;
      - CDA will implement a Community Food Access Program and will issue \$7 million in grants to assist corner stores providing healthy food access and expand stores that accept WIC and SNAP;
      - Nourish Colorado and DHS will continue to integrate and expand outreach efforts in alignment with this recommendation; and
      - DHS and CDPHE maintain active websites for growers and markets regarding eligibility and how to apply to accept SNAP and WIC benefits.
- *Recommendation - Maximization of federal and state dollars*
    - *Actions taken:*
      - Development of a calendar and a set of webinars to highlight funding opportunities and best practices for the development of grant proposals (The webinar was made available in Spring, 2022 with plans to continue);
      - Increasing the resources and staff required to provide technical assistance, partnership and collaborative support to Colorado farms,



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- ranches, food businesses and communities pursuing federal and state food grants. Through the passage of Senate Bill 22-208, CDA is currently offering grants for meat supply chains; and
- Encouragement provided to agencies to actively engage federal partners as new opportunities become available for additional federal and state partnerships.
- *Recommendation - Mid-scale and small meat value chains:*
    - Prompting elected officials and federal entities to consider reducing the limit on interstate shipping of state-inspected meat in order to allow Colorado consumers to purchase meat products from all 27 states that currently have state inspection programs;
    - Promoting additional opportunities for state-funded food buyers and other public institutions to purchase meat products from Colorado producers; and
    - Increasing staffing at the Colorado Association of Meat Processors and/or the Meat Science Program at Colorado State University to aid meat processors who would like to begin or expand their business operations.
    - *Actions taken:*
      - Passage of Senate Bill 21-079, also known as the Ranch to Plate Act, allowed owners of live animal shares to utilize custom exempt processors;
      - Establishment of numerous grants through Senate Bill 21-248 to expand meat processing capacity through the Colorado Future Loan and Grant program; and
      - Through the passage of Senate Bill 22-209, CD is currently providing funding for custom processors to hire grant writers to assist in applying for United States Department of Agriculture (USDA) funding to upgrade or expand their operations to become a USDA inspected facilities.
  - *Recommendation - Utilization of stimulus dollars:*
    - Improving grant application processes by simplifying applications and exploring grant application standardization across state agencies; and
    - Improving the impact evaluation for grants and projects.
    - *Actions taken:*
      - Short and clear application processes have been developed for CDA's Move the Needle and Infrastructure grants; and
      - For CDA Infrastructure grants, application questions included metrics that will provide a benchmark and will be tracked when possible.
  - *Recommendation - State Institutional Food Procurement:*
    - Development of standardized procurement and the collection of baseline data regarding local food procurement;

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- Development of a more comprehensive literature review regarding value-based impacts among purchasing programs;
  - Provide additional funding and support for state pilot programs with rigorous measurement and evaluation; and
  - Continuation of food procurement research and the development of additional procurement policy options and considerations.
  - *Actions taken:*
    - The Advisory Council leads an effort with the support of state agency members to capture data regarding existing state institutional food purchases on locally produced foods with the goal of providing baseline data to support future state-level policy and program efforts;
    - Nourish Colorado integrated a process to capture and track local purchases across multiple institutions through their USDA Regional Food Systems Partnership Program; and
    - Nourish Colorado also included extensive legal analysis and recommendations regarding values-based procurement requirements and the use of public dollars in the development of their law and policy roadmap.

Every other year, the Advisory Committee reports to the House Rural Affairs and Agricultural Committee and the Senate Agriculture and Natural Resources Committee, or their successor committees, regarding statewide data collection and assessment relating to the Advisory Council’s activities.<sup>50</sup>

Going beyond these statutory requirements, the Advisory Council publishes annual reports which contain a summary of the food systems issues that the Advisory Council reviewed in the previous year. Additionally, the annual report contains the Advisory Council’s recommendations as well as any suggestions for further action.

### **Reasons to Continue the Advisory Council**

The Advisory Council is comprised of members from a variety of state and federal government entities, nonprofit organizations, consumers, and experts in agricultural production, procurement, distribution, and nutrition to provide recommendations to strengthen comprehensive food systems throughout the state of Colorado.

The Advisory Council addresses a range of complex issues and is unique in its ability to bring together a variety of interested stakeholders to address increasing demands on Colorado’s local, regional, and statewide food systems.

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<sup>50</sup> § 23-31-1106, C.R.S.

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## Analysis and Recommendation

The Advisory Council fulfills an essential role through the expertise it provides and the relationships it develops to help ensure the future security and expansion of Colorado's food systems. Therefore, the General Assembly should continue the Advisory Council.

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## Health Equity Commission

### Creation, Mission and Make-Up

The Health Equity Commission (HEC) was established via Senate Bill 07-242. The purpose of the HEC is to serve as an advisor to the Office of Health Equity (Office), within the Colorado Department of Public Health and Environment (CDPHE), on issues specifically related to alignment, education and capacity-building for state and local health programs and community-based organizations.<sup>51</sup> The statute creating the HEC was amended in 2021 via Senate Bill 21-181 (SB 181), which among other things, increased the number of HEC members from 15 to 22.

Section 25-4-2206(2)(a), Colorado Revised Statutes, states that the HEC consists of 22 members, and they are as follows:

- The Speaker of House of Representatives appoints one member of the House of Representatives;
- The President of the Senate appoints one member of the Senate;
- The Executive Director of CDPHE, or a designee, serves as an *ex officio* member of the HEC;
- The Executive Director of the Department of Human Services, or a designee;
- The Executive Director of the Department of Health Care Policy and Financing, or a designee;
- The Executive Director of the Department of Labor and Employment, or a designee;
- The Executive Director of the Department of Local Affairs, or a designee;
- The Executive Director of the Department of Transportation, or a designee;
- The Executive Director of the Department of Public Safety, or a designee;
- The Commissioner of Education, or a designee;
- The Executive Director of the Department of Corrections, or a designee;
- The Executive Director of the Department of Higher Education, or a designee; and
- 10 members appointed by the Executive Director of CDPHE who represent, to the extent practical, Colorado's diverse ethnic, racial, sexual orientation, gender identity, gender expression, disability, aging population, socioeconomic and geographic backgrounds.

The 10 members appointed by the Executive Director of CDPHE must have demonstrated expertise in at least one, and preferably two, of the following areas:<sup>52</sup>

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<sup>51</sup> § 25-4-2206(1), C.R.S.

<sup>52</sup> § 25-4-2206(2)(a)(III), C.R.S.

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- African-American, Black, Asian-American, Pacific Islander, Native American, Hispanic, Latino, aging population, lesbian, gay, bisexual, transgender, disability, low socioeconomic status, and geographic community health issues;
  - Data collection, aggregation or dissemination;
  - Education;
  - Housing;
  - Healthy community design;
  - Community engagement;
  - Local public health;
  - Nonprofits, foundation or grant-making;
  - Environmental health;
  - Behavioral health; or
  - The provision of health-care services.

## Responsibilities of the HEC

The statutory responsibilities of the HEC are as follows:<sup>53</sup>

- Providing a formal mechanism for the public to give input to the Office;
- Advising CDPHE through the Office on:
  - Determining innovative data collection and dissemination strategies,
  - Aligning CDPHE's health equity efforts and health disparities and community grant program,
  - Strengthening collaborative partnerships with communities impacted by health disparities to identify and promote health equity strategies, and
  - Promoting workforce diversity; and
- Making recommendations to the Office and CDPHE on health disparities including a community grant program regarding financial support for local and statewide initiatives that address prevention, early detection, needs assessment, and treatment of cancer, cardiovascular disease, diabetes and pulmonary disease in minority populations.

## Revenues and Expenditures

The HEC does not generate revenue. However, costs incurred by the HEC are paid for by CDPHE. In fiscal year 21-22, the HEC had \$2,435 in expenditures for food and travel expenses for HEC members. In fiscal year 20-21, the HEC did not have any expenditures mainly due to the fact that most meetings were remote because of the COVID-19 pandemic.

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<sup>53</sup> § 25-4-2206(3), C.R.S.

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## Meetings of the HEC

Table 8 provides the meeting dates for the HEC in fiscal year 21-22, as well as the number of HEC members in attendance.

**Table 8**  
**HEC Meetings in Fiscal Year 21-22**

| Meeting Date            | Location | Number of Members in Attendance |
|-------------------------|----------|---------------------------------|
| July 28, 2021           | Remote   | 11                              |
| August 16, 2021         | Remote   | 20                              |
| September 20, 2021      | Denver   | 17                              |
| October 18, 2021        | Denver   | 17                              |
| November 15, 2021       | Denver   | 14                              |
| December 22, 2021       | Remote   | 13                              |
| January 26 and 28, 2022 | Remote   | 13                              |
| February 25, 2022       | Remote   | 12                              |
| March 21, 2022          | Remote   | 10                              |
| April 18, 2022          | Remote   | 16                              |
| May 5 and 6, 2022       | Remote   | 15                              |
| June 30, 2022           | Remote   | 13                              |

Table 8 indicates that an average of 14 HEC members attended meetings in fiscal year 21-22.

Table 9 delineates the number of HEC meetings, as well as the number of HEC members in attendance in fiscal year 20-21.

**Table 9**  
**HEC Meetings in Fiscal Year 20-21**

| Meeting Date       | Location | Number of Members in Attendance |
|--------------------|----------|---------------------------------|
| July 22, 2020      | Remote   | 9                               |
| September 23, 2020 | Denver   | 10                              |
| October 28, 2020   | Denver   | 10                              |
| November 13, 2020  | Denver   | 6                               |
| December 14, 2020  | Remote   | 10                              |
| January 8, 2021    | Remote   | 3                               |
| February 24, 2021  | Remote   | 7                               |
| March 8, 2021      | Remote   | 8                               |
| May 4, 2021        | Remote   | 8                               |
| May 26, 2021       | Remote   | 4                               |
| June 23, 2021      | Remote   | 4                               |

Table 9 shows that an average of seven HEC members attended meetings in fiscal year 20-21. Importantly, in fiscal year 20-21, there were 15 HEC members.

### **Proposals and Their Status**

The HEC advises CDPHE and the Office on best practices to achieve health equity. The input garnered from the HEC is incorporated into the work process or communication strategies to inform the mission of the HEC, the Office and CDPHE.

The HEC supports the Office in its efforts to disseminate funding to grassroots and community-based organizations to implement local and statewide initiatives that positively affect social determinants of health, reduce risk of future disease that exacerbates health disparities in underrepresented populations, as well as implement strategies for the prevention, early detection and the treatment of cancer, cardiovascular disease and pulmonary disease.

The process for funding dissemination includes assisting the Office in reviewing grant applications from the Health Disparities and Community Grants Program (HDCGP) and providing recommendations to the State Board of Health (BOH) for their approval. Grant applications vary but are intended to assist underrepresented communities address various issues associated with health equity.

Since 2019, the HEC has accomplished the following:

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- January 2019 - Recommended five applications for funding to the BOH for a total of \$2.93 million. The BOH subsequently approved all the recommendations from the HEC.
  - June-July 2021 - Assisted in the review of 16 HDCGP applications and recommended 14 applications to the BOH for funding. The BOH subsequently approved all 14 applications for a total of \$13.37 million.
  - December 2021-January 2022 - Assisted in the review of 39 HDCGP applications and recommended 30 applications to the BOH for funding. The BOH approved all 30 applications for a total of \$6.37 million.

In addition to assisting the Office and reviewing HDCGP applications and submitting related recommendations to the BOH, the HEC has accomplished the following:

- Advising the Office in developing the strategic framework for HDCGP solicitations, which includes community needs and strengths to address the social determinants of health and reduce health disparities.
- Contributing to a stakeholder engagement process for updating the HDCGP BOH rules.
- Assisting the Office in disseminating information related to HDCGP funding opportunities to their networks of community and grassroots organizations.
- Providing input into the Health Disparities Assessment, which was created via SB 181.

## Reasons to Continue the HEC

The passage of SB 181 expanded the role of the Office, which includes changes to the HEC. Specifically, SB 181 included the following:

- Expanding the HEC to 22 members by adding seven additional state agency members;
- Requiring a report every two years beginning in July 2022 on health disparities and inequalities in Colorado. The report includes an assessment of social determinants of health and recommends strategies to address inequities;
- Requiring the HEC to participate in an equity strategic planning process, which is led by the Governor's Office, as a response to the initial report, which is currently in progress;
- Renaming the grant program to the HDCGP and expanding its functions, including:
  - Expanding the functions of the HDCGP to include addressing the social determinants of health for underrepresented populations;
  - Specifying that the HDCGP fund may receive appropriations from the General Assembly; and
  - Requiring the Office to develop grant application criteria for community organizations seeking HDCGP funding.



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Additionally, House Bill 22-1157 requires the HEC to assist with CDPHE’s assessment of health disparities and inequities. Specifically, the statute requires the HEC to convene a data advisory working group (working group) to advise the HEC concerning collecting and aggregating nonidentifying demographic data and information from Colorado residents about race, ethnicity, disability, sexual orientation, and gender identity as part of public health programs and from information acquired by or submitted to CDPHE. The statute includes the selection of members for the working group.

## **Analysis and Recommendation**

The HEC provides a valuable service to the community, specifically, achieving health equity for persons in underrepresented populations. For example, the HEC makes recommendations to the Office and CDPHE on HDCGP regarding financial support for local and statewide initiatives that address prevention, early detection, needs assessment, and treatment of cancer, cardiovascular disease, diabetes and pulmonary disease in minority populations.

Recent legislation has added to the duties of the HEC, indicating a continued need for its work.

Additionally, the HEC has been active in its statutory duties and as the health equity environment continues to evolve, the role of the HEC is important to achieve health equity for persons in underrepresented populations.

Therefore, the General Assembly should continue the HEC.

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# Sexual Misconduct Advisory Committee

## Creation, Mission and Make-Up

The Sexual Misconduct Advisory Committee (Misconduct Committee) in the Colorado Department of Higher Education (CDHE) was created in Senate Bill 19-007 (SB 007) in response to the U.S. Department of Education’s (USDE) proposed revisions to rules promulgated under Title IX of the Educational Amendments of 1972 (Title IX). In short, Title IX protects people from sex-based discrimination in education programs and activities that receive federal funding, by stating:<sup>54</sup>

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving federal financial assistance.

In November 2018, USDE issued new proposed rules on Title IX, including changes in how educational institutions were to handle allegations of off-campus sexual misconduct and the cross-examination of parties and witnesses.<sup>55</sup>

Recognizing that Colorado’s institutions of higher education (institutions) would need to respond to the new rules quickly,<sup>56</sup> the General Assembly passed SB 007, which, among other things, created the Misconduct Committee. The Misconduct Committee was tasked with making recommendations to the General Assembly and the institutions “concerning sexual misconduct policies and methods to reduce sexual misconduct at [the institutions].”<sup>57</sup>

Appointed by the Executive Director of CDHE, the Misconduct Committee consists of 11 members:<sup>58</sup>

- Three representatives from institutions,
- Two Title IX coordinators from institutions,
- Three individuals who represent organizations that advocate on behalf of or provide services to victims of sexual misconduct,
- One attorney with experience representing victims of sexual misconduct at institutions,
- One attorney with experience representing individuals accused of sexual misconduct at institutions, and
- One person with experience providing trauma-informed care.

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<sup>54</sup> U.S. Department of Education, Office for Civil Rights. *Title IX and Sex Discrimination*. Retrieved July 21, 2022, from [www2.ed.gov/about/offices/list/ocr/docs/tix\\_dis.html](http://www2.ed.gov/about/offices/list/ocr/docs/tix_dis.html)

<sup>55</sup> §§ 23-5-147(1)(a) and (b), C.R.S.

<sup>56</sup> § 23-5-147(1)(d), C.R.S.

<sup>57</sup> § 23-5-147(3), C.R.S.

<sup>58</sup> § 23-5-147(4)(a), C.R.S.

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Misconduct Committee members serve four-year terms and serve without compensation or reimbursement for expenses.<sup>59</sup>

### **Responsibilities of the Misconduct Committee**

Once the final Title IX rules were issued (which occurred in May 2020), the Misconduct Committee was tasked with studying, examining best practices and making recommendations to the General Assembly and the institutions relating to sexual misconduct at the institutions, including:<sup>60</sup>

- How to handle incidents of sexual misconduct occurring outside of an institution’s programs, activities or property;
- How to conduct cross-examination of parties and witnesses at hearings;
- Whether a standard of reasonableness should be included in an institution’s sexual misconduct policy; and
- Whether institutions can and should have standards that are higher than those required by federal law and rule.

Within 90 days of the adoption of the final Title IX rules, the Misconduct Committee was required to submit a report to the education committees of the Colorado House of Representatives and the Colorado Senate, including any recommendations for changes to policies of institutions or to Colorado statutes.<sup>61</sup> Further, the Misconduct Committee is required to submit similar reports on or before January 15 each year, beginning in 2021.<sup>62</sup>

### **Revenues and Expenditures**

The Misconduct Committee has realized no revenues and there have been no expenditures.

### **Meetings of the Misconduct Committee**

Table 10 illustrates, for fiscal years 20-21 and 21-22, the total number of Misconduct Committee meetings held.

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<sup>59</sup> §§ 23-5-147(4)(b) and (4)(c), C.R.S.

<sup>60</sup> § 23-5-147(5), C.R.S.

<sup>61</sup> § 23-5-147(6)(a), C.R.S.

<sup>62</sup> § 23-5-147(6)(b), C.R.S.

**Table 10**  
**Misconduct Committee Meeting Dates**

| Meeting Date             |
|--------------------------|
| <b>Fiscal Year 20-21</b> |
| July 17, 2020            |
| July 22, 2020            |
| July 30, 2020            |
| September 2, 2020        |
| September 16, 2020       |
| September 30, 2020       |
| October 21, 2020         |
| November 5, 2020         |
| December 1, 2020         |
| December 17, 2020        |
| <b>Fiscal Year 21-22</b> |
| October 26, 2021         |
| November 9, 2021         |
| November 30, 2021        |
| December 7, 2021         |
| December 14, 2021        |
| January 11, 2022         |

The Misconduct Committee’s first report to the General Assembly was required to be submitted within 90 days of issuance of the final Title IX rules. That event occurred on May 6, 2020. The Misconduct Committee satisfied its reporting requirement with the submission of its first report on August 4, 2020.

The Misconduct Committee’s second report to the General Assembly was required to be submitted on or before January 15, 2021. The Misconduct Committee satisfied this requirement with the submission of its second report on January 15, 2021.

To meet these statutory deadlines, the Misconduct Committee met 10 times in fiscal year 20-21.

The Misconduct Committee’s six meetings in fiscal year 21-22 were also clearly clustered around preparing the third required report on January 15, 2022.

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Although CDHE staff reports that Misconduct Committee meetings are generally well attended, no attendance records have been maintained and no meeting minutes have been prepared.

## Proposals and Their Status

As required by statute, the Misconduct Committee has issued three reports to the General Assembly, one each on:

- August 4, 2020,
- January 15, 2021, and
- January 15, 2022.

Each of these reports contained recommendations (21 in total) that were primarily directed to institutions. In the August 4, 2020 report, the Misconduct Committee made 15 recommendations, most of which have been implemented to varying degrees, depending on the resources of the various institutions:

- Recommendation 1: Adjudicate and provide supportive measures regarding incidents of sexual misconduct outside of the designated Title IX jurisdiction.
- Recommendation 2: Complete disciplinary proceedings regardless of whether the respondent de-enrolls, quits, graduates, retires or otherwise leaves the institution.
- Recommendation 3: Adjudicate and provide supportive measures even where the complainant may not be participating or attempting to participate in programs or activities based on the status of the respondent and an analysis of the safety and impact of the conduct on the educational or employment environment.
- Recommendation 4: Define the institution's relationship with all students to ensure clarity regarding Title IX jurisdiction.
- Recommendation 5: Ensure that policies (either in one policy or multiple policies) cover non-Title IX sexual misconduct that falls outside the definition of Title IX sexual harassment.
- Recommendation 6: Consider multiple options for informal resolution to maximize and promote agency for complainants and respondents but ensure expertise, experience and subject matter knowledge before offering any type of informal resolution, particularly for sexual violence, intimate partner violence (dating and domestic violence) and stalking, for both Title IX and non-Title IX sexual misconduct.
- Recommendation 7: Provide on- and off-campus resources and supportive measures for non-Title IX cases (as already required for Title IX cases) for students and employees.
- Recommendation 8: Provide complainants with the contact information for confidential victim advocates pursuant to section 23-5-146(4), C.R.S., for both Title IX and non-Title IX cases.

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- Recommendation 9: For violations of Title IX and other forms of sexual misconduct (non-Title IX sexual misconduct) refer students and/or employees to the same sanctioning authorities.
  - Recommendation 10: Train students and employees pursuant to sections 23-5-146(5) and (6), C.R.S., for both Title IX and non-Title IX cases.
  - Recommendation 11: Train any individual designated as responsible for investigating or adjudicating complaints under the institution's Title IX and non-Title IX sexual misconduct policy (or policies) pursuant to sections 23-5-146(5) and (6), C.R.S.
  - Recommendation 12: Provide documents explaining rights to the entire grievance process and supportive measures for all parties.
  - Recommendation 13: Provide a case management document.
  - Recommendation 14: Ensure accessible and reliable technological support and space requirements.
  - Recommendation 15: Implement procedural/decorum rules and prohibit abusive, misleading, confusing and harassing questioning to ensure a fair process for all participants.

In the January 15, 2021 report, the Misconduct Committee made three recommendations:

- Recommendation 16: Institutions should continue to address all forms of sexual misconduct - whether identified as Title IX or not (See Recommendations 1,3, 5, 7, 9,10 and 12 of the August 2020 report) and provide support services/accommodations to victims of sexual assault, again whether in Title IX or not (See Recommendation 7 of the August 2020 report).
- Recommendation 17: Education Committees should identify means to include participation of kindergarten through grade 12 (K-12) stakeholders in state advisory roles to address and respond to sexual misconduct.
- Recommendation 18: CDHE should cover the following issues for the 2021 Colorado Summit on Sexual Misconduct:<sup>63</sup> institution responses to new rules (including but not limited to barriers to participation, role of advisors, resource guides and regional center), implicit bias and education/prevention. The Misconduct Committee also recommended inviting K-12 stakeholders to participate in the 2021 summit.

Recommendation 17 was partially enacted in Senate Bill 22-207 (SB 207), which requires the Colorado Department of Education (CDE) to commission a study on Title IX sexual misconduct in K-12 education. Recommendations 16 and 18 were implemented by the institutions and CDHE to varying degrees.

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<sup>63</sup> Senate Bill 19-007, which, among other things, created the Misconduct Committee, also directed CDHE to hold biennial summits for stakeholders, advocates, students, faculty and others to facilitate communication, share information, hear from experts and offer other efforts to promote awareness and prevention of sexual misconduct on the institutions' campuses. The first such summit was held in July 2021.

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Finally, the Misconduct Committee made three recommendations in its January 15, 2022 report, all of which were directed to institutions and most of which have been implemented to varying degrees, based upon the resources of the various institutions:

- Recommendation 19: Following the *Cardona*<sup>64</sup> decision, remove the exclusionary rule for witnesses and parties in Title IX and non-Title IX sexual misconduct hearings.
- Recommendation 20: Review institution policies, procedures and practices to ensure the reliability of party and witness statements gathered during an investigation of Title IX and non-Title IX sexual misconduct cases to promote fair and equitable resolution by the institution’s decision-maker.
- Recommendation 21: Convene the institutions and relevant stakeholders in summer 2022 to discuss the potential need and viability of a “state center” to provide technical guidance and facilitation if needed for the adjudication of Title IX and non-Title IX cases.

### Reasons to Continue the Misconduct Committee

The Misconduct Committee was created in 2019 as a way to help the institutions adapt to anticipated revisions to Title IX rules that were announced in 2018. In June 2022, a new round of revisions was announced,<sup>65</sup> indicating a continued need for the focus of the Misconduct Committee as the new rules are formulated and ultimately implemented.

The Misconduct Committee continues to serve as a resource for institutions as they navigate the challenging legal landscape of Title IX, both in terms of the rules themselves and judicial opinions. The complexities of Title IX have created an inequitable situation, in that smaller institutions do not necessarily have the same resources as larger institutions. The Misconduct Committee helps to address that equity issue by creating a forum in which the institutions can share their experiences.

The Misconduct Committee brings together different perspectives to provide guidance to all institutions, so that students have more similar experiences regardless of the institution they attend. To this end, the Misconduct Committee facilitates the sharing of best practices, in a public forum.

Furthermore, SB 207 requires CDE to contract with a third party to study the Title IX rules in the context of K-12 education. The bill requires the party conducting the CDE study to consult with “a committee on sexual misconduct at CDHE.” Although the bill does not specifically name the Misconduct Committee, the intent is clear: CDE’s

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<sup>64</sup> In *Victim Rights Law Center v. Cardona*, a federal district court in Massachusetts vacated what had become known as “the exclusionary rule,” which had required a decision-maker in a Title IX case to disregard all statements by witnesses and parties who were not subject to live cross-examination. See *Sexual Misconduct Advisory Committee Third Report and Recommendations*, January 15, 2022, p. 4.

<sup>65</sup> National Public Radio, “Biden’s Title IX reforms would roll back Trump-era rules, expand victim protections,” June 23, 2022. Retrieved August 5, 2022, from [www.npr.org/2022/06/23/1107045291/title-ix-9-biden-expand-victim-protections-discrimination](http://www.npr.org/2022/06/23/1107045291/title-ix-9-biden-expand-victim-protections-discrimination)

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contractor is expected to consult with the Misconduct Committee. Although Title IX applies to K-12 education, too, that system is very different from the state's higher education system. Still, the more K-12 and higher education coordinate, the more the state's students will have a consistent set of expectations and experiences. Those in K-12 education might be able to learn from the institutions about what has, and what has not worked for them.

In short, the work of the Misconduct Committee is far from complete.

### **Analysis and Recommendation**

Since the Title IX rules are again being revised and since CDE's contractor has been instructed to consult with the Misconduct Committee, work remains for the Misconduct Committee to perform.

Therefore, the General Assembly should continue the Misconduct Committee.



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## State Noxious Weed Advisory Committee

### Creation, Mission and Make-Up

In 2003, the State Noxious Weed Advisory Committee (Noxious Weed Committee) was established in the Colorado Noxious Weed Act, as part of an organized and coordinated effort to stop the spread of noxious weeds. The Noxious Weed Committee is housed in the Department of Agriculture (CDA).

The Colorado Noxious Weed Act defines a noxious weed as a plant or parts of a plant that are non-native and labeled as noxious weed either in rule or by a local advisory board. A noxious weed must also have one or more of the following traits:<sup>66</sup>

- Aggressively invades or is detrimental to economic crops or native plant communities;
- Is poisonous to livestock;
- Is a carrier of detrimental insects, diseases or parasites; or
- Is directly or indirectly detrimental to the environmentally sound management of natural or agricultural ecosystems.

According to statute, the Noxious Weed Committee consists of at least 15 members, 13 of whom are appointed by the Commissioner of Agriculture (Commissioner), including:<sup>67</sup>

- At least one representative of private and public landowners or land managers;
- At least two representatives of weed management professionals from the federal, state or local levels;
- At least one representative of public or private weed scientists;
- At least two representatives of local governing bodies;
- Four agricultural producers; and
- At least three representatives of knowledgeable resource specialists or industries.

Two additional nonvoting members are appointed with the approval of the Commissioner by:<sup>68</sup>

- The Department of Transportation, and
- The Department of Natural Resources.

In 2021 and 2022, a total of 17 members were appointed to the Noxious Weed Committee. In addition to the minimum appointments required by statute, the Commissioner has also appointed one public weed scientist and one commercial pesticide applicator.

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<sup>66</sup> § 35-5.5-103(16), C.R.S.

<sup>67</sup> § 35-5.5-108.7(1)(a)(I), C.R.S.

<sup>68</sup> § 35-5.5-108.7(1)(a)(II), C.R.S.

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If possible, the membership should equally represent the different geographic areas of the state, and each member must solicit information from and communicate with their respective stakeholders and regions.<sup>69</sup>

Members serve two-year terms, and no member may serve more than two full terms.<sup>70</sup>

## Responsibilities of the Noxious Weed Committee

The Noxious Weed Committee is charged with making recommendations to the Commissioner related to noxious weed:<sup>71</sup>

- Designation;
- Classification;
- State management plan development and implementation;
- Eradication, containment and suppression; and
- Management on surface waters and public lands.

Additionally, the Noxious Weed Committee is required to:<sup>72</sup>

- Assess the progress of the state in implementing a program to manage noxious weeds;
- Measure the results and effectiveness of efforts to contain, suppress and eradicate noxious weeds; and
- Make recommendations to the Commissioner on how to improve efforts to stop the spread of noxious weeds.

In Colorado, noxious weeds are divided into four categories:

- List A,
- List B,
- List C, and
- The Watch List.

The Commissioner has designated plants on List A for eradication, List B for management to stop them from spreading and List C to support jurisdictions that choose to control them. The Commissioner is gathering information on plants listed on the Watch List to determine whether they pose a threat to agriculture or the environment and, therefore, should be designated as noxious weeds.

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<sup>69</sup> § 35-5.5-108.7(1)(a)(III), C.R.S.

<sup>70</sup> § 35-5.5-108.7(1)(b), C.R.S.

<sup>71</sup> § 35-5.5-108.7(2), C.R.S.

<sup>72</sup> § 35-5.5-108.7(4), C.R.S.

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## Revenues and Expenditures

The Noxious Weed Committee is funded through the Noxious Weed Management Fund, which also funds the Noxious Weed Management Program.

Noxious Weed Committee members are not allocated per diem, but CDA pays for lunches on meeting days and limited travel expenses. Because of the COVID-19 pandemic, meeting expenses in fiscal years 20-21 and 21-22 were uncharacteristically low.

In fiscal year 20-21, the Noxious Weed Committee meetings were held virtually. As a result, no meeting expenses were incurred.

In fiscal year 21-22, two of the Noxious Weed Committee meetings were held virtually and two of the meetings were a hybrid of in-person and virtual meetings, and the expenses for these meetings totaled \$423 for meals.

The Noxious Weed Committee expenses were few during the COVID-19 pandemic since most of its meetings were held virtually. However, during non-pandemic years, the cost of the Noxious Weed Committee is also minimal since the members are not allocated per diem and are paid minimal travel expenses.

## Meetings of the Noxious Weed Committee

The Noxious Weed Committee is required to meet at least quarterly.<sup>73</sup> In fiscal years 20-21 and 21-22, the Noxious Weed Committee fulfilled this requirement.

**Table 11**  
**Noxious Weed Committee Meetings**

| Meeting Date       | Members in Attendance |
|--------------------|-----------------------|
| August 27, 2020    | 13                    |
| November 12, 2020  | 9                     |
| January 28, 2021   | 11                    |
| April 22, 2021     | 16                    |
| September 15, 2021 | 12                    |
| December 17, 2021  | 10                    |
| April 26, 2022     | 12                    |
| June 28, 2022      | 11                    |

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<sup>73</sup> § 35-5.5-108.7(1)(g), C.R.S.

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On average, 12 of the 17 members attended each meeting. To form a quorum, the Noxious Weed Committee must have at least 8 voting members in attendance.

## Proposals and Their Status

During the COVID-19 pandemic, the Noxious Weed Committee did not make any recommendations, but the members engaged in discussions related to:

- The listing decision process,
- How to engage various levels of government in noxious weed control,
- Creating new incentive and reward programs, and
- Establishing effective and consistent messaging.

At the April 2022 meeting, the Noxious Weed Committee was briefed on the List B Management Plan Process since CDA is considering changes to these rules.

At the June 2022 meeting, the Noxious Weed Committee discussed the Wyoming Plant Assessment Form and agreed to compare it with the Colorado Plant Assessment Form<sup>74</sup> to determine whether any changes need to be made to Colorado's form.

The Noxious Weed Management Program at CDA funds multiple grants that are directed toward efforts to manage noxious weeds at the local level, and CDA relies on Noxious Weed Committee members to also serve on the Grant Review Committee, a separate advisory committee in CDA. Members of the Grant Review Committee evaluate and score up to 12 grants and make recommendations for full, partial or no funding.

Five members of the Noxious Weed Committee served on the Grant Review Committee during the 2021 grant review cycle, and four members served on the committee during the 2022 grant review cycle.

## Reasons to Continue the Noxious Weed Committee

The Noxious Weed Committee provides an essential function linking CDA to the various interests and expertise involved in managing noxious weeds in the state.

Members represent the following interests:

- Agricultural producers,
- Landowners or land managers,

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<sup>74</sup> Colorado Plant Assessment Form: The Noxious Weed Program uses this form to perform a risk assessment on potentially harmful plants. If a plant ranks high on the Colorado Plant Assessment Form, it is likely to cause economic or environmental harm and the Commissioner will consider adding it to the Noxious Weed List. There are multiple other steps in the process to determine whether a plant is added to the Noxious Weed List, including a recommendation from the Noxious Weed Committee.

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- Local governing bodies,
  - Weed management professionals, and
  - Weed scientists.

They also represent different geographic areas of the state. Current members are located in the following regions:

- The Eastern Plains,
- The Front Range,
- The Lower Arkansas Basin, and
- The Western Slope.

In particular, the Noxious Weed Committee provides expertise and practical experience in:

- Weed science and management,
- Agricultural production, and
- Local government.

The weed science expertise is essential to the Noxious Weed Committee's deliberations and CDA's decision-making process. CDA also benefits from practical guidance provided by local weed managers, agricultural producers and private landowners.

## Analysis and Recommendation

Noxious weeds, such as bindweed, Russian olive trees and puncturevine, impact agriculture, wildlife and recreational areas.<sup>75</sup> Noxious weeds are aggressive and spread rapidly. They may poison livestock, compete with crops, displace deer and elk, compete with native plants and threaten endangered species, and they may also displace water important to certain ecosystems.<sup>76</sup>

Additionally, noxious weeds may worsen conditions that cause wildfire and soil erosion.<sup>77</sup>

The Noxious Weed Committee was created to perform the following basic duties:

- Make recommendations to the Commissioner regarding noxious weed management and eradication, and
- Assess the progress of the state to implement a program to manage noxious weeds.

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<sup>75</sup> *Noxious Weed Management Program Brochure*, Colorado Department of Agriculture, p. 1.

<sup>76</sup> *2012 Sunset Review: Noxious Weed Advisory Committee*, Colorado Office of Policy, Research and Regulatory Reform (2012), p. 33.

<sup>77</sup> *Noxious Weed Management Program Brochure*, Colorado Department of Agriculture, p. 1.

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The Noxious Weed Committee is also charged with measuring the results and effectiveness of efforts to contain, suppress and eradicate noxious weeds. The Noxious Weed Committee indirectly carries out this function in collaboration with CDA's Noxious Weed Program staff. CDA performs this function by collecting weed distribution information for mapping purposes. It also administers a grant program that provides resources to counties, conservation districts and municipalities, with federal and state funding sources, in order to conduct, monitor and evaluate weed management efforts. The Noxious Weed Committee performs this function through its meetings, which are largely focused on the exchange of information and discussion of the progress being made, issues confronted and the scope of work that lies ahead.

While the COVID-19 pandemic has slowed the work of the Noxious Weed Committee, the Commissioner continues to rely on the expertise and practical experience of its members in order to establish statewide noxious weed policy.

Therefore, the General Assembly should continue the Noxious Weed Committee.