

CHAPTER 128

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 93-1093

BY REPRESENTATIVES Faatz, Acquafresca, Adkins, Agler, Anderson, Armstrong, Berry, Clark, Greenwood, Hagedorn, R. Hernandez, Jerke, Keller, Kreutz, Lawrence, Morrison, Pfiffner, Pierson, Reeser, Schauer, Sullivan, and Taylor; also SENATORS Meiklejohn, Ament, Norton, Roberts, Ruddick, Schroeder, and Weissmann.

AN ACT

CONCERNING MEASURES TO ENSURE LEARNING ENVIRONMENTS FOR STUDENTS IN PUBLIC SCHOOLS.

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

SECTION 1. 22-32-110 (2) and (3), Colorado Revised Statutes, 1988 Repl. Vol., as amended, are amended, and the said 22-32-110 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

22-32-110. Board of education - specific powers. (2) (a) THE GENERAL ASSEMBLY HEREBY FINDS AND DECLARES THAT EVERY STUDENT IN A PUBLIC SCHOOL IN THIS STATE HAS THE RIGHT TO LEARN IN AN ENVIRONMENT WHICH IS SAFE, CONDUCTIVE TO THE LEARNING PROCESS, AND FREE FROM UNNECESSARY DISRUPTION. TO ENSURE SUCH AN ENVIRONMENT, EVERY SCHOOL DISTRICT MUST ADOPT A CONDUCT AND DISCIPLINE CODE FOR THE SCHOOLS OF THE DISTRICT WHICH IS BASED UPON THE PRINCIPLE THAT EVERY STUDENT IS EXPECTED TO FOLLOW ACCEPTED RULES OF CONDUCT AND TO SHOW RESPECT FOR AND TO OBEY THE PERSONS IN AUTHORITY IN THE SCHOOL. THE CONDUCT AND DISCIPLINE CODE MUST ALSO EMPHASIZE THAT CERTAIN BEHAVIOR, ESPECIALLY BEHAVIOR THAT DISRUPTS THE CLASSROOM, IS UNACCEPTABLE FROM A STUDENT AND MAY RESULT IN DISCIPLINARY ACTION BEING TAKEN AGAINST THE STUDENT. SCHOOL DISTRICTS MUST THEN ENFORCE THE CODE SO THAT STUDENTS DEMONSTRATING UNACCEPTABLE BEHAVIOR AND THEIR PARENTS, GUARDIANS, OR LEGAL CUSTODIANS UNDERSTAND SUCH BEHAVIOR WILL NOT BE TOLERATED IN THE SCHOOL AND WILL BE DEALT WITH IN ACCORDANCE WITH THE CODE.

(b) The board of education of each school district shall adopt a WRITTEN CONDUCT AND discipline code AS REQUIRED BY SECTION 22-32-109 (1) (w) which shall include,

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

but NEED not be limited to: ~~provisions to deal with disorderly students in a manner which allows other students to learn in an atmosphere which is safe, conducive to the learning process, and free from unnecessary disruption, including~~

(I) GENERAL POLICIES ON STUDENT CONDUCT, SAFETY, AND WELFARE;

(II) GENERAL POLICIES AND PROCEDURES FOR DEALING WITH STUDENTS WHO CAUSE A DISRUPTION IN THE CLASSROOM, ON SCHOOL GROUNDS, ON SCHOOL VEHICLES, OR AT SCHOOL ACTIVITIES OR EVENTS;

(III) PROCEDURES FOR THE DEVELOPMENT OF REMEDIAL DISCIPLINE PLANS FOR STUDENTS WHO CAUSE A DISRUPTION IN THE CLASSROOM, ON SCHOOL GROUNDS, ON SCHOOL VEHICLES, OR AT SCHOOL ACTIVITIES OR EVENTS FOR A THIRD TIME DURING THE SCHOOL YEAR;

(IV) POLICIES AND PROCEDURES FOR THE USE OF acts of reasonable and appropriate physical intervention or force IN DEALING WITH DISRUPTIVE STUDENTS; however, no board shall adopt a discipline code which includes provisions which are in conflict with the definition of child abuse in sections 18-6-401 (1) and 19-3-303 (1), C.R.S.;

(V) GENERAL POLICIES AND PROCEDURES FOR THE IMPOSITION OF DISCIPLINARY ACTIONS, INCLUDING SUSPENSION AND EXPULSION, WHICH COMPLY WITH THE PROVISIONS OF SECTIONS 22-33-105 AND 22-33-106; AND

(VI) A SPECIFIC POLICY CONCERNING GANG-RELATED ACTIVITIES IN THE SCHOOL, ON SCHOOL GROUNDS, ON SCHOOL VEHICLES, OR AT SCHOOL ACTIVITIES OR EVENTS.

(c) A COPY OF THE CONDUCT AND DISCIPLINE CODE SHALL BE PROVIDED TO STUDENTS PURSUANT TO THE PROVISIONS OF SECTION 22-32-109 (1) (w).

(3) In the development and adoption of a CONDUCT AND discipline code pursuant to subsection (2) of this section, the board of education shall consult with parents, teachers, administrators, students, and the community at large.

(3.5) (a) AT THE END OF EVERY SCHOOL YEAR, THE ACCOUNTABILITY ADVISORY COMMITTEE OF EACH SCHOOL IN A SCHOOL DISTRICT SHALL SUBMIT A WRITTEN REPORT TO THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT, WITH COPIES OF SUCH REPORT TO BE SENT TO THE DISTRICT ACCOUNTABILITY COMMITTEE AND THE SUPERINTENDENT OF SUCH SCHOOL DISTRICT, CONCERNING THE LEARNING ENVIRONMENT IN THE SCHOOL DURING THAT SCHOOL YEAR. SUCH REPORT SHALL INCLUDE SPECIFIC INFORMATION ON CONDUCT AND DISCIPLINE ACTIONS TAKEN DURING THE SCHOOL YEAR. THE REPORT FOR A SCHOOL BUILDING SHALL BE MADE AVAILABLE TO THE PARENTS AND TO THE GENERAL PUBLIC.

(b) REPORTS SUBMITTED FOR INDIVIDUAL SCHOOL BUILDINGS SHALL BE COMPILED INTO A SUMMARY FOR THE SCHOOL DISTRICT WHICH SHALL BE SUBMITTED AS A PART OF THE ANNUAL REPORT TO THE STATE BOARD OF EDUCATION. THE SUMMARY SHALL BE IN A FORM PRESCRIBED BY THE STATE BOARD.

SECTION 2. 22-32-109 (1) (w), Colorado Revised Statutes, 1988 Repl. Vol., is

amended to read:

22-32-109. Board of education - specific duties. (1) In addition to any other duty required to be performed by law, each board of education shall have and perform the following specific duties:

(w) To adopt A written ~~policies, rules, and regulations~~ CONDUCT AND DISCIPLINE CODE IN ACCORDANCE WITH SECTION 22-32-110(2), not inconsistent with law, which ~~may relate~~ RELATES to the study, discipline, conduct, safety, and welfare of all pupils, or any classification of pupils, enrolled in the public schools of the school district. ~~and to adopt~~ THE CONDUCT AND DISCIPLINE CODE SHALL INCLUDE written procedures, not inconsistent with article 33 of this title, for the suspension and expulsion of, or denial of admission to, a pupil, which procedures shall afford due process of law to pupils, parents, and school personnel. Copies of such ~~policies and procedures for suspension and expulsion~~ CONDUCT AND DISCIPLINE CODE shall be distributed once to each student in elementary, middle, junior high, and high school and once to each new student in a school district and shall be posted in each public school of the school district. Any significant change in ~~such policies and procedures~~ THE CONDUCT AND DISCIPLINE CODE shall be distributed to each student and posted in each public school of the district.

SECTION 3. 22-33-105 (3), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 22-33-105 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

22-33-105. Suspension, expulsion, and denial of admission. (3) If a pupil is suspended pursuant to subsection (2) of this section, the suspending authority shall immediately notify the parent, guardian, or legal custodian of such pupil that the pupil has been suspended and of the grounds for such suspension, the period of such suspension, and the time and place for such parent, guardian, or legal custodian to meet with the suspending authority to review such suspension. A SUSPENDED PUPIL SHALL BE REQUIRED TO LEAVE THE SCHOOL BUILDING AND THE SCHOOL GROUNDS IMMEDIATELY, FOLLOWING A DETERMINATION BY THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN AND THE SCHOOL OF THE BEST WAY TO TRANSFER CUSTODY OF THE PUPIL TO THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN. No pupil shall be readmitted to a public school until such meeting has taken place or until, in the discretion of the suspending authority, the parent, guardian, or legal custodian of the suspended pupil has substantially agreed to review the suspension with such suspending authority; except that, if the suspending authority cannot contact the parent, guardian, or legal custodian of such pupil or if such parent, guardian, or legal custodian repeatedly fails to appear for scheduled meetings, the suspending authority may readmit such pupil.

(4) THE BOARD OF EDUCATION OF EACH DISTRICT SHALL ESTABLISH, AS AN ALTERNATIVE TO SUSPENSION, A POLICY THAT ALLOWS THE PUPIL TO REMAIN IN SCHOOL BY ENCOURAGING THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN, WITH THE CONSENT OF THE PUPIL'S TEACHER OR TEACHERS, TO ATTEND CLASS WITH THE PUPIL FOR A PERIOD OF TIME SPECIFIED BY THE SUSPENDING AUTHORITY. IF THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN DOES NOT AGREE TO ATTEND CLASS WITH THE PUPIL OR FAILS TO ATTEND CLASS WITH THE PUPIL, THE PUPIL SHALL BE SUSPENDED IN ACCORDANCE WITH THE CONDUCT AND DISCIPLINE CODE OF THE DISTRICT.

(5) (a) WHENEVER A PETITION FILED IN JUVENILE COURT ALLEGES THAT A CHILD BETWEEN THE AGES OF FOURTEEN TO EIGHTEEN HAS COMMITTED AN OFFENSE THAT WOULD CONSTITUTE A CRIME OF VIOLENCE, AS DEFINED IN SECTION 16-11-309, C.R.S., IF COMMITTED BY AN ADULT OR WHENEVER CHARGES FILED IN DISTRICT COURT ALLEGE THAT A CHILD HAS COMMITTED SUCH AN OFFENSE, BASIC IDENTIFICATION INFORMATION CONCERNING SUCH CHILD AND THE DETAILS OF THE ALLEGED DELINQUENT ACT OR OFFENSE SHALL BE PROVIDED IMMEDIATELY TO THE SCHOOL DISTRICT IN WHICH THE CHILD IS ENROLLED IN ACCORDANCE WITH THE PROVISIONS OF SECTION 19-1-119 (5), C.R.S. UPON RECEIPT OF SUCH INFORMATION, THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT SHALL MEET IN EXECUTIVE SESSION, AS ALLOWED BY SECTION 24-6-402 (4) (h), C.R.S., FOR THE PURPOSE OF CONDUCTING A HEARING TO DETERMINE WHETHER THE STUDENT HAS EXHIBITED BEHAVIOR THAT IS DETRIMENTAL TO THE SAFETY, WELFARE, AND MORALS OF THE OTHER STUDENTS OR OF SCHOOL PERSONNEL IN THE SCHOOL AND WHETHER EDUCATING THE STUDENT IN THE SCHOOL MAY DISRUPT THE LEARNING ENVIRONMENT IN THE SCHOOL, PROVIDE A NEGATIVE EXAMPLE FOR OTHER STUDENTS, OR CREATE A DANGEROUS AND UNSAFE ENVIRONMENT FOR STUDENTS, TEACHERS, AND OTHER SCHOOL PERSONNEL. IF THE BOARD OF EDUCATION, IN ACCORDANCE WITH THE PROVISIONS OF THIS SUBSECTION (5), MAKES A DETERMINATION THAT THE STUDENT SHOULD NOT BE EDUCATED IN THE SCHOOL, THE BOARD SHALL DETERMINE IF SUFFICIENT GROUNDS EXIST TO EXPEL THE STUDENT AT THAT TIME AND SHALL PROCEED WITH THE EXPULSION. ALTERNATIVELY, THE BOARD MAY DETERMINE THAT IT WILL WAIT UNTIL THE CONCLUSION OF THE JUVENILE PROCEEDINGS TO CONSIDER THE EXPULSION MATTER, IN WHICH CASE IT SHALL BE THE RESPONSIBILITY OF THE DISTRICT TO PROVIDE SAID STUDENT WITH AN APPROPRIATE ALTERNATE EDUCATION PROGRAM OR A HOME-BASED EDUCATION PROGRAM. INFORMATION MADE AVAILABLE TO THE SCHOOL DISTRICT AND NOT OTHERWISE AVAILABLE TO THE PUBLIC PURSUANT TO THE PROVISIONS OF SECTION 19-1-119, C.R.S., SHALL REMAIN CONFIDENTIAL.

(b) NO STUDENT WHO IS BEING EDUCATED IN AN ALTERNATE EDUCATION PROGRAM OR A HOME-BASED EDUCATION PROGRAM PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (5) SHALL BE ALLOWED TO RETURN TO THE EDUCATION PROGRAM IN THE PUBLIC SCHOOL UNTIL THERE HAS BEEN A DISPOSITION OF THE CHARGE. IF THE STUDENT PLEADS GUILTY, IS FOUND GUILTY, OR IS ADJUDICATED A DELINQUENT JUVENILE, THE SCHOOL DISTRICT MAY PROCEED IN ACCORDANCE WITH SECTION 22-33-106 TO EXPEL THE STUDENT.

(c) NO COURT WHICH HAS JURISDICTION OVER THE CHARGES AGAINST A STUDENT WHO IS SUBJECT TO THE PROVISIONS OF THIS SUBSECTION (5) SHALL ISSUE AN ORDER REQUIRING THE STUDENT TO BE EDUCATED IN THE EDUCATION PROGRAM IN THE SCHOOL IN CONTRADICTION OF THE PROVISIONS OF THIS SUBSECTION (5).

(6) WHEN A PUPIL IS EXPELLED BY A SCHOOL DISTRICT FOR THE REMAINDER OF THE SCHOOL YEAR, THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS RESPONSIBLE FOR SEEING THAT THE COMPULSORY SCHOOL ATTENDANCE STATUTE IS COMPLIED WITH DURING THE PERIOD OF EXPULSION FROM SUCH SCHOOL DISTRICT.

SECTION 4. 19-1-119 (5), Colorado Revised Statutes, 1986 Repl. Vol., as amended, is amended to read:

19-1-119. Confidentiality of juvenile records - delinquency. (5) Whenever a

petition filed in juvenile court alleges that a child between the ages of fourteen to eighteen has committed an offense that would constitute a crime of violence, as defined in section 16-11-309, C.R.S., if committed by an adult or whenever charges filed in district court allege that a child has committed such an offense, basic identification information concerning such child shall be made available to the public. SUCH BASIC IDENTIFICATION INFORMATION, ALONG WITH THE DETAILS OF THE ALLEGED DELINQUENT ACT OR OFFENSE, SHALL BE PROVIDED IMMEDIATELY TO THE SCHOOL DISTRICT IN WHICH THE CHILD IS ENROLLED. SUCH INFORMATION SHALL BE USED BY THE BOARD OF EDUCATION FOR PURPOSES OF SECTION 22-33-105 (5), C.R.S., BUT INFORMATION MADE AVAILABLE TO THE SCHOOL DISTRICT AND NOT OTHERWISE AVAILABLE TO THE PUBLIC SHALL REMAIN CONFIDENTIAL.

SECTION 5. 22-33-106 (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., is amended, and the said 22-33-106 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-33-106. Grounds for suspension, expulsion, and denial of admission.

(1) The following shall be grounds for suspension or expulsion of a child from a public school during a school year:

(c.5) DECLARATION AS AN HABITUALLY DISRUPTIVE STUDENT, WHICH EXPULSION SHALL BE MANDATORY. FOR PURPOSES OF THIS PARAGRAPH (c.5), "HABITUALLY DISRUPTIVE STUDENT" MEANS A CHILD WHO CAUSED A DISRUPTION IN THE CLASSROOM, ON SCHOOL GROUNDS, ON SCHOOL VEHICLES, OR AT SCHOOL ACTIVITIES OR EVENTS MORE THAN FIVE TIMES DURING THE SCHOOL YEAR, BECAUSE OF BEHAVIOR WHICH WAS INITIATED, WILLFUL, AND OVERT ON THE PART OF THE CHILD AND WHICH REQUIRED THE ATTENTION OF SCHOOL PERSONNEL TO DEAL WITH THE DISRUPTION; EXCEPT THAT NO CHILD SHALL BE DECLARED TO BE AN "HABITUALLY DISRUPTIVE STUDENT" PRIOR TO THE DEVELOPMENT OF A REMEDIAL DISCIPLINE PLAN FOR SUCH CHILD IN ACCORDANCE WITH THE CONDUCT AND DISCIPLINE CODE OF THE SCHOOL DISTRICT. NOTHING SHALL PROHIBIT A SCHOOL DISTRICT FROM DEFINING "HABITUALLY DISRUPTIVE STUDENT" IN ITS CONDUCT AND DISCIPLINE CODE SO LONG AS SUCH DEFINITION IS NO LESS STRINGENT THAN THE DEFINITION IN THIS PARAGRAPH (c.5).

(d) Serious violations in a school building or in or on school property, ~~including, but not limited to,~~ WHICH SUSPENSION OR EXPULSION SHALL BE MANDATORY; EXCEPT THAT EXPULSION SHALL BE MANDATORY FOR THE FOLLOWING VIOLATIONS: The USE OR possession of a deadly weapon as defined in section 18-1-901 (3) (e), C.R.S., WITHOUT THE AUTHORIZATION OF THE SCHOOL OR THE SCHOOL DISTRICT; the sale of a drug or controlled substance as defined in section 12-22-303, C.R.S.; or the commission of an act which if committed by an adult would be robbery pursuant to part 3 of article 4 of title 18, C.R.S., or assault pursuant to part 2 of article 3 of title 18, C.R.S. ~~which suspension or expulsion shall be mandatory.~~

SECTION 6. 22-33-104 (2) (d), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

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

(d) Who has been suspended, expelled, or denied admission in accordance with the provisions of this article; EXCEPT THAT, WHEN A PUPIL IS EXPELLED FOR THE REMAINDER OF THE SCHOOL YEAR, THE PARENT, GUARDIAN, OR LEGAL CUSTODIAN IS RESPONSIBLE FOR SEEING THAT THE PROVISIONS OF SUBSECTION (1) OF THIS SECTION ARE COMPLIED WITH DURING THE PERIOD OF EXPULSION FROM THE SCHOOL DISTRICT.

SECTION 7. Effective date. This act shall take effect July 1, 1993.

SECTION 8. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: April 19, 1993