

## CHAPTER 62

---

**EDUCATION - PUBLIC SCHOOLS**

---

**HOUSE BILL 94-1073**

BY REPRESENTATIVES Blue, Sullivan, and Tucker;  
also SENATORS Ament and Weissmann.

**AN ACT****CONCERNING THE REFUSAL BY ANY SCHOOL DISTRICT TO ALLOW ATTENDANCE OF CERTAIN CHILDREN IN THE PUBLIC SCHOOLS.**

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

**SECTION 1.** 22-33-105 (2) (c), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended to read:

**22-33-105. Suspension, expulsion, and denial of admission.** (2) In addition to the powers provided in section 22-32-110, the board of education of each district may:

(c) Deny admission to, or expel for any period not extending beyond one year, any child whom the board of education, in accordance with the limitations imposed by this article, shall determine does not qualify for admission to, or continued attendance at, the public schools of the district. A board of education may delegate such powers to its executive officer ~~but, at its next meeting, the latter~~ OR TO A DESIGNEE WHO SHALL SERVE AS A HEARING OFFICER. IF THE HEARING IS CONDUCTED BY A DESIGNEE ACTING AS A HEARING OFFICER, THE HEARING OFFICER SHALL FORWARD FINDINGS OF FACT AND RECOMMENDATIONS TO THE EXECUTIVE OFFICER AT THE CONCLUSION OF THE HEARING. THE EXECUTIVE OFFICER SHALL RENDER A WRITTEN OPINION WITHIN FIVE DAYS AFTER A HEARING CONDUCTED BY THE EXECUTIVE OFFICER OR BY A HEARING OFFICER. THE EXECUTIVE OFFICER shall report on each case acted upon AT THE NEXT MEETING OF THE BOARD OF EDUCATION, briefly describing the circumstances and the reasons for ~~his~~ THE EXECUTIVE OFFICER'S action. When delegated, an appeal may be taken from the decision of the executive officer to the board of education. THE APPEAL SHALL CONSIST OF A REVIEW OF THE FACTS THAT WERE PRESENTED AND THAT WERE DETERMINED AT THE HEARING CONDUCTED BY THE EXECUTIVE OFFICER OR BY

---

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

A DESIGNEE ACTING AS A HEARING OFFICER, ARGUMENTS RELATING TO THE DECISION, AND QUESTIONS OF CLARIFICATION FROM THE BOARD OF EDUCATION. No board of education shall deny admission to, or expel, any child without a hearing, if one is requested by the parent, GUARDIAN, OR LEGAL CUSTODIAN of the child, at which evidence may be presented in ~~his~~ THE CHILD'S behalf. If the child is denied admission or expelled, ~~he~~ THE CHILD shall be entitled to a review of the decision of the board of education in accordance with section 22-33-108.

**SECTION 2.** 22-33-106 (1) (d), Colorado Revised Statutes, 1988 Repl. Vol., as amended, is amended 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:

(d) Serious violations in a school building or in or on school property, which suspension or expulsion shall be mandatory; except that expulsion shall be mandatory for the following violations: Carrying, bringing, using, or possessing 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., OTHER THAN THE COMMISSION OF AN ACT BY AN ELEMENTARY SCHOOL STUDENT THAT WOULD BE THIRD DEGREE ASSAULT UNDER SECTION 18-3-204, C.R.S., IF COMMITTED BY AN ADULT;

**SECTION 3.** 22-33-108 (3), Colorado Revised Statutes, 1988 Repl. Vol., is amended to read:

**22-33-108. Judicial proceedings.** (3) After the petition is filed, the court shall notify the board and shall hold a hearing on the matter. ~~If, from the matters presented to it, the court finds that the board of education failed to comply with the provisions of this article or that the child should be permitted to enter or reenter the schools of the district, the court shall set aside the order of the board of education and direct that the child be admitted to school. If the court finds that the board of education complied with the provisions of this article and that under the circumstances the child should not be allowed to enter or reenter the schools of the district, the court shall dismiss the petition.~~ THE COURT SHALL CONDUCT JUDICIAL REVIEW OF A HEARING DECISION PURSUANT TO RULE 106 (a) (4) OF THE COLORADO RULES OF CIVIL PROCEDURE.

**SECTION 4. Effective date - applicability.** This act shall take effect July 1, 1994, and shall apply to offenses committed on or after said date.

**SECTION 5. 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: March 29, 1994