

CHAPTER 102

**EDUCATION - PUBLIC SCHOOLS**

SENATE BILL 06-118

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also REPRESENTATIVE(S) Larson, Boyd, Carroll M., Coleman, Hodge, Madden, McGihon, Merrifield, Solano, Stafford, and  
Todd.

**AN ACT**

CONCERNING AMENDMENTS TO THE "EXCEPTIONAL CHILDREN'S EDUCATIONAL ACT" TO CONFORM WITH THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004".

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

**SECTION 1.** 22-20-102, Colorado Revised Statutes, is amended to read:

**22-20-102. Legislative declaration.** The general assembly, recognizing the obligation of the state of Colorado to provide educational opportunities to all children ~~which~~ THAT will enable them to lead fulfilling and productive lives, declares that the purpose of this article is to provide means for educating those children who are exceptional. To this end, it is necessary to establish a continuum of services ~~which~~ THAT recognizes the capabilities of all state agencies, including special classes in public schools and the establishment of special schools, programs for children with disabilities who are confined to their homes or hospitals, and instruction in institutions of the state for exceptional children. The final determination for the placement in a special education program of any eligible exceptional child shall be made by the ~~board of education of the school district of the child's residence, subject to the provisions of this article~~ CHILD'S INDIVIDUALIZED EDUCATION PROGRAM TEAM AS DESIGNATED BY THE GOVERNING BOARD OF THE RESPONSIBLE ADMINISTRATIVE UNIT OR BY THE GOVERNING AUTHORITY OF A STATE-OPERATED PROGRAM. It is the intent of the general assembly, in keeping with accepted educational principles, that children with disabilities shall be educated in the least restrictive environment TO THE MAXIMUM EXTENT APPROPRIATE. To this end, the services of special education personnel shall be utilized within the ~~regular~~ GENERAL school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing

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

consultative services to ~~regular~~ GENERAL classroom teachers. It is further the intent of this article to assure that there is a coordination of all services available to children with disabilities and to promote the entering into agreements or contracts between ~~school districts and~~ ADMINISTRATIVE UNITS, other public agencies, ~~and~~ nonprofit organizations, and ~~residential child care~~ ELIGIBLE facilities for the provision of appropriate services for children with disabilities. IT IS FURTHER THE INTENT OF THE GENERAL ASSEMBLY THAT THIS ARTICLE AND THE RULES PROMULGATED PURSUANT TO THIS ARTICLE BY THE STATE BOARD ALIGN CLOSELY WITH THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004", 42 U.S.C. SEC. 1400 ET. SEQ., AS AMENDED, AND ITS IMPLEMENTING REGULATIONS, 34 CFR, PART 300, IN ORDER TO MINIMIZE THE NUMBER OF RULES, REGULATIONS, AND POLICIES TO WHICH ADMINISTRATIVE UNITS, STATE-OPERATED PROGRAMS, AND ELIGIBLE FACILITIES ARE SUBJECT. Also, nothing in this article shall be construed to affect the placement of children out of the home or alternatives to such placements as provided in section 19-1-116, C.R.S.

**SECTION 2.** 22-20-103, Colorado Revised Statutes, is amended to read:

**22-20-103. Definitions.** As used in this article, unless the context otherwise requires:

(1) "Administrative unit" means a school district, a board of cooperative services, or the state charter school institute, that is providing educational services to exceptional children and that is responsible for the local administration of this article.

(1.2) "ADVANCED LEARNING PLAN" OR "ALP" MEANS A WRITTEN RECORD OF GIFTED AND TALENTED PROGRAMMING UTILIZED WITH EACH GIFTED CHILD AND CONSIDERED IN EDUCATIONAL PLANNING AND DECISION MAKING.

(1.3) "BOARD OF COOPERATIVE SERVICES" MEANS A REGIONAL EDUCATIONAL SERVICES UNIT CREATED PURSUANT TO ARTICLE 5 OF THIS TITLE AND DESIGNED TO PROVIDE SUPPORTING, INSTRUCTIONAL, ADMINISTRATIVE, FACILITY, COMMUNITY, OR ANY OTHER SERVICES CONTRACTED BY PARTICIPATING MEMBERS.

(1.5) "Children with disabilities" means those persons between the ages of ~~five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one~~ who, by reason of one or more of the following conditions, are unable to receive reasonable benefit from ~~ordinary~~ GENERAL education: Long-term physical impairment or illness; significant limited intellectual capacity; significant identifiable emotional disorder; ~~or identifiable perceptual or communicative disorders, or speech disorders~~; SPECIFIC LEARNING DISABILITY; OR SPEECH OR LANGUAGE IMPAIRMENTS. ~~"Children with disabilities" also means those persons between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one whose presence in the ordinary educational program is detrimental to the education of others and who must therefore receive modified or supplementary assistance and services in order to function and learn.~~

(1.7) "Communication mode or language" means one or more of the following systems or methods of communication applicable to ~~deaf and hard-of-hearing~~ children WHO ARE DEAF OR HARD OF HEARING:

- (a) American sign language;
- (b) English-based manual or sign systems; or
- (c) Oral, aural, or speech-based training.

(2) "Department" means the department of education.

(2.5) "District charter school" means a charter school authorized by a school district pursuant to part 1 of article 30.5 of this title.

(2.7) "ELIGIBLE FACILITY" MEANS A GROUP CARE FACILITY OR HOME, COMMUNITY-CENTERED BOARD, HOSPITAL, OR STATE-LICENSED DAY TREATMENT FACILITY THAT OFFERS A SCHOOL PROGRAM PROVIDING SPECIAL EDUCATION SERVICES TO CHILDREN WITH DISABILITIES THAT HAS BEEN APPROVED BY THE STATE BOARD OF EDUCATION.

(3) "Equipment" means that equipment used especially for the instruction or assessment of children with disabilities which is approved by the state board. The state board shall publish a list of the types of approved equipment.

(3.4) "Exceptional children" means those children defined in subsection (1.5) of this section as children with disabilities and those children defined in subsection (3.7) of this section as gifted children. An administrative unit shall serve every child with a disability but may provide voluntary programs for the gifted. An administrative unit may make special educational programs and services available to children with disabilities under age five and, on and after January 1, 1992, under age three and gifted children under age five who would otherwise qualify as exceptional children under this subsection (3.4), and such persons enrolled in special educational programs or receiving special educational services shall be deemed to be "exceptional children" for all purposes of this article. The state board shall ~~develop guidelines~~ PROMULGATE RULES for the identification of exceptional children who, UNDER THE PROVISIONS OF THIS ARTICLE, may become eligible for special educational services. ~~under the provisions of this article.~~

(3.7) "Gifted children" means those persons between the ages of five and twenty-one whose abilities, talents, and potential for accomplishments are so outstanding that they require special provisions to meet their educational needs.

(3.8) "INDIVIDUALIZED EDUCATION PROGRAM" OR "IEP" MEANS A WRITTEN STATEMENT FOR A CHILD WITH A DISABILITY THAT IS DEVELOPED, REVIEWED, AND REVISED IN ACCORDANCE WITH THIS ARTICLE AND THE RULES PROMULGATED BY THE STATE BOARD.

(3.9) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO PART 5 OF ARTICLE 30.5 OF THIS TITLE.

(4) (Deleted by amendment, L. 93, p. 1640, § 30, effective July 1, 1993.)

(5) Repealed.

(5.5) "Least restrictive environment" means programs used to educate a child with a disability using the delivery system most appropriately meeting the needs of the child. ~~and; To the MAXIMUM extent possible APPROPRIATE, as determined by the local board of education or the state charter school institute~~ CHILD'S IEP TEAM, subject to the appeals procedures outlined in section 22-20-108 (3), the term means an environment in which a child with a disability is educated with children without disabilities, unless the nature or severity of the disability is such that education in ~~regular~~ GENERAL EDUCATION classes with the use of supplementary aids and services cannot be achieved satisfactorily, or, when provided with supplementary aids and services, the nature or severity of the disability is so disruptive that the education of other children in such classes would be significantly impaired.

(5.7) "Literacy mode" means one of the following four systems or methods of achieving literacy applicable to blind children:

(a) "Auditory mode" means any method or system of achieving literacy which depends upon the auditory senses, including the use of readers, taped materials, electronic speech, speech synthesis, or any combination of the above.

(b) "Braille" means the system of reading and writing by means of raised points, commonly known as standard English braille.

(c) "Print enlargement" means any method or system of achieving literacy which includes optical aids to enhance apprehension of printed material, electronic enlargement of printed material, books and textual materials printed in large print, and any combination of the above.

(d) "Regular print mode" means any method or system of achieving literacy which depends upon the apprehension of regular-sized printed material.

(6) ~~"Optometrist" means a doctor of optometry duly licensed to practice optometry.~~ "PUBLIC AGENCY" MEANS A PUBLIC AGENCY THAT:

(a) IS NOT AN ADMINISTRATIVE UNIT; AND

(b) IS LEGALLY AUTHORIZED TO PLACE A CHILD IN AN ELIGIBLE FACILITY OR ANOTHER OUT-OF-HOME PLACEMENT.

(7) ~~"Physician" means a doctor of medicine or osteopathy duly licensed to practice medicine.~~ "PUBLIC PLACEMENT" MEANS THE PLACEMENT OF A CHILD WITH A DISABILITY IN AN ELIGIBLE FACILITY OR ANOTHER OUT-OF-HOME PLACEMENT BY A COURT OR PUBLIC AGENCY.

(8) ~~"Psychologist" means any person who meets any one of the following requirements:~~

(a) Proper certification as a school psychologist by the state board;

~~(b) Proper certification as a psychologist by the Colorado state board of psychologist examiners;~~

~~(c) A minimum of two years of graduate training in psychology, if supervised by a psychologist as defined in paragraph (a) or (b) of this subsection (8) and if employed as a psychologist by an institution of higher education, hospital, or mental health clinic or agency that is supported at least in part by government funds.~~

(9) "School district" means a school district organized and existing pursuant to law, but shall not include a junior college district.

(9.5) "SPECIAL EDUCATION SERVICES" OR "SPECIAL EDUCATION PROGRAMS" MEANS THE SERVICES OR PROGRAMS PROVIDED TO A CHILD WITH A DISABILITY IN CONFORMITY WITH THE CHILD'S IEP.

(9.6) "SPECIAL EDUCATIONAL SERVICES" OR "SPECIAL EDUCATIONAL PROGRAMS" MEANS THE SERVICES OR PROGRAMS PROVIDED TO EXCEPTIONAL CHILDREN PURSUANT TO THIS ARTICLE.

(9.8) "SPECIFIC LEARNING DISABILITY" MEANS A DISORDER IN ONE OR MORE OF THE BASIC PSYCHOLOGICAL PROCESSES INVOLVED IN UNDERSTANDING OR IN USING LANGUAGE, SPOKEN OR WRITTEN, WHICH DISORDER MAY MANIFEST ITSELF IN THE IMPERFECT ABILITY TO LISTEN, THINK, SPEAK, READ, WRITE, SPELL, OR DO MATHEMATICAL CALCULATIONS, AND INCLUDES SUCH CONDITIONS AS PERCEPTUAL DISABILITIES, BRAIN INJURY, MINIMAL BRAIN DYSFUNCTION, DYSLEXIA, AND DEVELOPMENTAL APHASIA. "SPECIFIC LEARNING DISABILITY" DOES NOT INCLUDE A LEARNING PROBLEM THAT IS PRIMARILY THE RESULT OF VISUAL, HEARING, OR MOTOR DISABILITIES, OF MENTAL RETARDATION, OF EMOTIONAL DISTURBANCE, OR OF ENVIRONMENTAL, CULTURAL, OR ECONOMIC DISADVANTAGE.

(10) "State board" means the state board of education.

(11) "State charter school institute" means the state charter school institute created pursuant to part 5 of article 30.5 of this title.

(12) "STATE-OPERATED PROGRAM" MEANS AN APPROVED SCHOOL PROGRAM SUPERVISED BY THE DEPARTMENT AND OPERATED BY:

(a) THE COLORADO SCHOOL FOR THE DEAF AND BLIND;

(b) THE DEPARTMENT OF CORRECTIONS; OR

(c) THE DEPARTMENT OF HUMAN SERVICES, INCLUDING BUT NOT LIMITED TO THE DIVISION OF YOUTH CORRECTIONS AND THE MENTAL HEALTH INSTITUTES AT FORT LOGAN AND PUEBLO.

**SECTION 3.** 22-20-104 (1), (2) (a), and (4), Colorado Revised Statutes, are amended to read:

**22-20-104. Administration.** (1) (a) This article shall be administered by the department. Administration of this article shall include the recommendation to the state board of reasonable ~~criteria, rules, and regulations; recommended minimum standards for facilities, materials, equipment, and personnel; and recommended assessment criteria for identifying exceptional children, their level of disability or~~

~~exception, and the special services needed.~~ RULES NECESSARY TO IMPLEMENT THIS ARTICLE, INCLUDING BUT NOT LIMITED TO:

(I) MINIMUM STANDARDS FOR ADMINISTRATIVE UNITS, STATE-OPERATED PROGRAMS, ELIGIBLE FACILITIES, AND PERSONNEL;

(II) CRITERIA FOR DETERMINING DISABILITY AND ELIGIBILITY FOR SPECIAL EDUCATIONAL SERVICES;

(III) PROCEDURES REGARDING THE IDENTIFICATION OF EXCEPTIONAL CHILDREN;

(IV) REQUIREMENTS FOR PARENTAL CONSENT, INCLUDING BUT NOT LIMITED TO PARENTAL CONSENT FOR THE EVALUATION OF CHILDREN WITH DISABILITIES AND THE INITIAL PROVISION OF SPECIAL EDUCATION SERVICES;

(V) REQUIRED IEP CONTENT AND PROCEDURES FOR IEP DEVELOPMENT, REVIEW, AND REVISION;

(VI) APPLICATION OF SCHOOL DISCIPLINE PROCEDURES TO CHILDREN WITH DISABILITIES;

(VII) REQUIRED PROCEDURAL SAFEGUARDS;

(VIII) PROCEDURES FOR SPECIAL EDUCATION DISPUTE RESOLUTION;

(IX) EXTENDED SCHOOL YEAR SERVICES; AND

(X) REQUIREMENTS PURSUANT TO THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004" REGARDING CHILDREN WITH DISABILITIES WHO ARE ENROLLED IN PRIVATE SCHOOLS.

(b) The state board shall adopt appropriate recommendations AS RULES TO IMPLEMENT THIS ARTICLE following public ~~hearings in several locations throughout the state with respect to the suggested criteria, rules, regulations, and standards.~~ ~~Recommendations adopted~~ COMMENT AND HEARING. THE RULES PROMULGATED by the state board shall be in accord with the legislative declaration set forth in section 22-20-102.

(c) ~~A school district or the state charter school institute~~ AN ADMINISTRATIVE UNIT, A STATE-OPERATED PROGRAM, OR AN ELIGIBLE FACILITY that provides plans, programs, or services ~~which THAT do not reasonably satisfy the criteria, rules, regulations, and standards recommended~~ COMPLY WITH THE RULES ADOPTED by the state board will be provided by the department of education with a detailed analysis of any discrepancies noted along with specific recommendations for their correction. APPLICABLE FEDERAL AND STATE funding will be provided or continued for a reasonable period of time, as determined by the department, to allow the ~~school district or the state charter school institute~~ ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, OR ELIGIBLE FACILITY AN opportunity to ~~satisfy the recommended criteria, rules, regulations, and standards, or to~~ COMPLY WITH SUCH RULES. AN ADMINISTRATIVE UNIT MAY establish a claim for variance based upon conditions indigenous to ~~a school district or unique to the state charter school institute~~

## ADMINISTRATIVE UNIT.

(2) (a) In order to assist the state board in the performance of its responsibilities for the implementation of this article, THE STATE BOARD SHALL APPOINT a state special education advisory committee of an appropriate size. ~~shall be appointed by the state board.~~ The members of the advisory committee shall be representative of the state population and shall be composed of persons involved in or concerned with the education of children with disabilities, including parents of children with disabilities AGES BIRTH THROUGH TWENTY-SIX YEARS; individuals with disabilities; teachers; representatives of institutions of higher education that prepare special education and related services personnel; state and local education officials, INCLUDING OFFICIALS WHO CARRY OUT ACTIVITIES UNDER SECTION 22-33-103.5; administrators of programs for children with disabilities; representatives of other state agencies involved in the financing or delivery of related services to children with disabilities; representatives of private schools, ~~and public~~ DISTRICT CHARTER SCHOOLS, AND INSTITUTE charter schools; at least one representative of a vocational, community, or business organization concerned with the provision of transition services to children with disabilities; A REPRESENTATIVE FROM CHILD WELFARE SERVICES IN THE DEPARTMENT OF HUMAN SERVICES ESTABLISHED PURSUANT TO SECTION 26-5-102, C.R.S.; and representatives from the division of youth corrections in the department of human services and from the department of corrections. A majority of the members of the advisory committee shall be individuals with disabilities or parents of children with disabilities. Members shall be appointed for one-year or two-year terms. Any additions to the composition of the advisory committee shall be made pursuant to the ~~rules~~ PROCEDURES of the state board.

(4) To comply with this section, the department shall maintain a data and information system on children, personnel, costs, and revenues, and such data and information shall be used to ensure that state moneys provided to ~~districts and the state charter school institute~~ ADMINISTRATIVE UNITS under the provisions of section ~~22-20-106~~ (†) 22-20-106 are being spent only on special education services and programs.

**SECTION 4.** 22-20-104.5 (1), Colorado Revised Statutes, is amended to read:

**22-20-104.5. Plan for academic excellence - inclusion of gifted children - cooperation.** (1) Administrative units may develop and implement a management plan for excellence in education ~~which~~ THAT shall include the education of gifted children CONSISTENT WITH EACH GIFTED CHILD'S ADVANCED LEARNING PLAN. Any plan developed and implemented pursuant to the provisions of this section shall satisfy any criteria for accreditation which have been established by the state board. No management plan shall be implemented by an administrative unit unless adequate funding is provided for such implementation.

**SECTION 5. Repeal.** 22-20-105, Colorado Revised Statutes, is repealed as follows:

**22-20-105. Depository and retrieval network for visually and hearing impaired children.** ~~The department will maintain a production, inventory, and depository system for those textbooks, equipment, and instructional and resource~~

~~materials used in the education of visually and hearing impaired children or in the in-service training of professional personnel. The services of said system shall be available to those administrative units which find it more economical to employ materials from a central depository than to maintain their own.~~

**SECTION 6.** 22-20-106, Colorado Revised Statutes, is amended to read:

**22-20-106. Special educational programs.** (1)(a) By September 1, 1973, every school district in the state shall be either an administrative unit in itself or in a board of cooperative services which shall be designated as an administrative unit.

(b) The state charter school institute shall be an administrative unit for the purpose of delivering special education services to all institute charter schools and shall meet the criteria established by the state board governing the duties and responsibilities of the director of special education. An administrative unit shall also be a school district or board of cooperative services that meets criteria established by the state board governing the duties and responsibilities of the director of special education and is either a board of cooperative services that conducts special educational programs for all school districts that are members of the board of cooperative services or is a school district that meets criteria of geographic size, location, and number of pupils established by the state board to achieve maximum efficiency in administering programs of special education.

(c) Although the state board shall define the qualifications and the general duties and responsibilities of directors of special education, such directors shall be regarded for all purposes as employees of their local administrative units and subject to the administrative direction of such units.

(2) (a) ~~Each administrative unit, STATE-OPERATED PROGRAM, AND ELIGIBLE FACILITY shall submit a COMPREHENSIVE plan to the department pursuant to the rules promulgated by the state board indicating how the school district or the state charter school institute ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, OR ELIGIBLE FACILITY will provide for THE education of all children with disabilities. between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one. Each unit COMPREHENSIVE plan shall include the type and number of children with disabilities in the unit based upon the department's criteria of incidence SERVED, the services to be provided, and the estimated resources necessary. An addendum to the administrative unit's plan to cover gifted children may be submitted by January 1, 1980.~~

(b) IF AN ADMINISTRATIVE UNIT RECEIVES FUNDING TO EDUCATE GIFTED CHILDREN, THE ADMINISTRATIVE UNIT SHALL SUBMIT AN ANNUAL PLAN FOR EDUCATING SAID CHILDREN TO THE DEPARTMENT PURSUANT TO RULES PROMULGATED BY THE STATE BOARD.

(3) (a) ~~Administrative units~~ EACH ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, AND ELIGIBLE FACILITY shall make available special ~~educational~~ EDUCATION services AS SPECIFIED BY THE IEP for ~~the education of~~ any child with a disability ~~between the ages of five and twenty-one and, on and after January 1, 1992, between the ages of three and twenty-one under jurisdiction of the administrative unit and may serve gifted students~~ FOR WHOM IT IS RESPONSIBLE, AS

DEFINED BY THE RULES ADOPTED BY THE STATE BOARD PURSUANT TO THIS ARTICLE.  
AN ADMINISTRATIVE UNIT MAY ALSO SERVE GIFTED STUDENTS.

(b) In providing these services, an administrative unit, STATE-OPERATED PROGRAM, OR ELIGIBLE FACILITY ~~shall~~ MAY pay for salaries and employee benefits of certified special education teachers and special education staff; equipment; ~~in-service training of the staff of an administrative unit~~ PROFESSIONAL DEVELOPMENT FOR TEACHERS AND STAFF who have pupil contact; mileage expenses incurred by staff; ~~the costs of educational services for a child in an eligible facility;~~ or any other expenses related to special education. THE DISTRICT OF RESIDENCE SHALL PAY THE TUITION COSTS FOR A CHILD WITH A DISABILITY IN AN ELIGIBLE FACILITY PURSUANT TO SECTIONS 22-20-108 (8) AND 22-20-109 (1). Special education services may be provided by community-centered boards in cooperation with administrative units. ~~school districts, and the state charter school institute.~~ Special education services may be provided by the state charter school institute through contracts with school districts or boards of cooperative services.

(4) To comply with this section, an administrative unit may contract with one or more administrative units to establish and maintain special educational programs for the education of exceptional children, sharing the costs thereof in accordance with the terms of the contract agreed upon; or an administrative unit having fewer than six children who need a particular kind of special educational program may purchase services from one or more administrative units where an appropriate special educational program exists.

(5) By September 1, 1973, and thereafter, each administrative unit shall employ a director of special education. EACH STATE-OPERATED PROGRAM OR ELIGIBLE FACILITY SHALL EMPLOY OR CONTRACT IN WRITING FOR A DIRECTOR OF SPECIAL EDUCATION. ~~From and after July 1, 1975, no~~ A director of special education shall ~~be employed who does not~~ meet qualification standards ~~as set by~~ PROMULGATED BY RULE OF the state board.

(6) Each administrative unit, STATE-OPERATED PROGRAM, AND ELIGIBLE FACILITY shall employ OR CONTRACT IN WRITING FOR a sufficient number of appropriately licensed special education teachers and staff to adequately carry out those functions ~~that provide for case finding and assessment of children who may have disabilities; staffing of the special committee as provided in section 22-20-108, teacher and parent counseling and consultation, in-service education for school staff and volunteers, and necessary supporting services approved by the department~~ FOR WHICH IT IS RESPONSIBLE, AS DEFINED BY THE RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS ARTICLE, INCLUDING BUT NOT LIMITED TO CHILD IDENTIFICATION, IEP DEVELOPMENT, AND PROFESSIONAL DEVELOPMENT FOR SCHOOL STAFF.

(7) Any administrative unit OR STATE-OPERATED PROGRAM planning to utilize federal funds from any source for the education of children with disabilities as provided in this article shall obtain prior approval from the department for the use of such funds. The use of such funds in the administrative unit OR STATE-OPERATED PROGRAM shall be in accordance with rules ~~and regulations~~ as established by the ~~department~~ STATE BOARD, which are not in conflict with federal law or regulations.

(8) Nothing in this section shall be construed to change the purpose and function of the COLORADO school for the deaf and the blind in Colorado Springs or to change the requirements or standards for admission thereto.

~~(9) Behavior disordered pupils shall receive appropriate individualized services as part of their regular educational programs unless a disability exists as defined under this article. It is the intent of the general assembly that there be no additional out-of-home placement of behavior disordered pupils except after a unanimous determination by an evaluation team that out-of-home placement is the only practicable alternative.~~

(10) Repealed.

**SECTION 7.** 22-20-107.5, Colorado Revised Statutes, is amended to read:

**22-20-107.5. District of residence of a child with a disability - jurisdiction.**

(1) Notwithstanding the provisions of section 22-1-102 (2), for the purposes of this article the district of residence of a child with a disability is the school district in which such child lives on a day-to-day basis; except that:

(a) If a child with a disability is homeless, as defined by section 22-1-102.5, the provisions of section 22-1-102 (2) (h) shall apply;

~~(b) and except that, when~~ If a child WITH A DISABILITY is living at one of the regional centers, including satellite homes of such centers, operated by the department of human services or any other facility operated by or under contract to the department of human services or at the Colorado mental health institute INSTITUTES at Pueblo or Fort Logan, ~~a group care facility or home~~ AN ELIGIBLE FACILITY, or the COLORADO school for the deaf and the blind, such child shall be deemed to reside where the parent or guardian of such child resides;

~~(c) except that, when~~ If a child lives in ~~such facility~~ ONE OF THE REGIONAL CENTERS OR THE MENTAL HEALTH INSTITUTES AT PUEBLO OR FORT LOGAN OR IN AN ELIGIBLE FACILITY AND the district of residence cannot be determined due to the inability to locate a parent or guardian OR DUE TO THE HOMELESSNESS OF A PARENT OR GUARDIAN, the child shall be considered a resident of the school district in which such REGIONAL CENTER, MENTAL HEALTH INSTITUTE, OR ELIGIBLE facility is located.

(2) If there is a dispute as to which school district constitutes the district of residence, the commissioner of education shall have the authority to determine questions of residency and thus jurisdiction after reviewing necessary details involved in the determination of residency.

**SECTION 8.** 22-20-108, Colorado Revised Statutes, is amended to read:

**22-20-108. Determination of disability - enrollment.** (1) (a) The determination that a child has a disability and ~~the recommendation for placement of that child in an individual educational program shall be made by a committee of professionally qualified personnel designated by the board of education of the school district, by the state charter school institute board, or by the governing board of the board of cooperative services if the administrative unit encompasses more~~

~~than a single school district. The composition of the committee shall be prescribed by the state board and may be composed of but not limited to the following: The director of special education for the administrative unit, a psychologist, a social worker, a physician, a school administrator, and a teacher of children with disabilities. The committee shall utilize guidelines recommended by the department to determine the least restrictive environment in which to educate the child. In the event that placement in a community center for the retarded and for persons with serious disabilities is considered appropriate for the needs of a child with a disability, a joint placement committee composed of professional personnel, as described in this section, representing the administrative unit and the community center for the retarded and for persons with serious disabilities, may recommend placement in such center. The committee shall give parents of a child with an alleged disability an opportunity to consult with the committee or a representative thereof prior to determination that their child has a disability~~ IS ELIGIBLE FOR SPECIAL EDUCATION SERVICES SHALL BE MADE BY A MULTIDISCIPLINARY TEAM THAT SHALL INCLUDE, AT A MINIMUM, THE PARENT OF THE CHILD AND PROFESSIONALLY QUALIFIED PERSONNEL DESIGNATED BY THE RESPONSIBLE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM. THE COMPOSITION OF THE MULTIDISCIPLINARY TEAM AND THE PROCEDURES TO BE USED FOR DETERMINING A CHILD'S ELIGIBILITY FOR SPECIAL EDUCATION SERVICES SHALL BE PRESCRIBED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS ARTICLE.

(b) THE DEVELOPMENT OF AN IEP FOR A CHILD WITH DISABILITIES AND DETERMINATION OF PLACEMENT SHALL BE MADE BY THE CHILD'S IEP TEAM, INCLUDING BUT NOT LIMITED TO THE CHILD'S PARENT AND QUALIFIED PROFESSIONAL PERSONNEL DESIGNATED BY THE RESPONSIBLE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM. THE COMPOSITION OF THE IEP TEAM AND THE PROCEDURES TO BE USED FOR DEVELOPING THE CHILD'S IEP SHALL BE PRESCRIBED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS ARTICLE.

(2) ~~Before any child is given an individually administered battery of psychological tests for placement in an individual educational program, the child's parent or guardian must give consent in writing.~~

(3) (a) ~~In the event of an appeal of the determination of the disability or of the placement of a child in an individual educational program pursuant to subsection (1) of this section, or an appeal of the program to be offered, the school district or the state charter school institute shall first appoint an administrative law judge to make findings of fact and a recommendation concerning the matter at issue. The findings of fact and recommendation shall be delivered to the school district board of education or the state charter school institute board~~ IN THE EVENT OF AN APPEAL OF THE DETERMINATION OF DISABILITY, THE DETERMINATION OF ELIGIBILITY FOR SERVICES, THE IEP TO BE OFFERED, THE DETERMINATION OF PLACEMENT, OR THE PROVISION OF A FREE APPROPRIATE PUBLIC EDUCATION FOR A CHILD WITH DISABILITIES PURSUANT TO THIS ARTICLE, THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM SHALL UTILIZE THE PROCEDURES AND TIMETABLE FOR IMPARTIAL DUE PROCESS HEARINGS ESTABLISHED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS ARTICLE.

(b) ~~If either the school district board of education or the state charter school institute board and~~ THE ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM OR the

parent or guardian disagree with the findings of the ~~administrative law judge~~ IMPARTIAL HEARING OFFICER WHO CONDUCTS THE DUE PROCESS HEARING, either party may appeal to the commissioner of education for review. This review shall be conducted in accordance with procedures and timetables established by RULES PROMULGATED BY the state board, ~~of education~~, and a decision concerning the review shall be returned to the ~~school district or the state charter school institute~~ ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM and the parent or guardian.

(4) Each child determined to have a disability by the ~~committee~~ MULTIDISCIPLINARY TEAM pursuant to PARAGRAPH (a) OF subsection (1) of this section shall be provided with an ~~individual educational program which shall be developed in accordance with requirements established by the state board of education~~ IEP DEVELOPED BY THE CHILD'S IEP TEAM PURSUANT TO PARAGRAPH (b) OF SUBSECTION (1) OF THIS SECTION and shall be reviewed annually. ~~Such individual educational program~~ THE IEP FOR EACH CHILD ENROLLED IN A SCHOOL DISTRICT OR THE STATE CHARTER SCHOOL INSTITUTE shall specify whether ~~such student~~ THE CHILD shall achieve the content standards adopted by the district in which ~~such student~~ THE CHILD is enrolled or by the state charter school institute or whether ~~such student~~ THE CHILD shall achieve individualized standards which would indicate the ~~student~~ CHILD has met the requirements of ~~such student's individual educational program~~ HIS OR HER IEP. FOR EACH CHILD ATTENDING SCHOOL IN AN ELIGIBLE FACILITY OR STATE-OPERATED PROGRAM, THE IEP SHALL SPECIFY WHETHER THE CHILD SHALL ACHIEVE STATE OR LOCAL CONTENT STANDARDS, OR WHETHER THE CHILD SHALL ACHIEVE INDIVIDUALIZED STANDARDS WHICH WOULD INDICATE THAT THE CHILD HAS MET THE REQUIREMENTS OF HIS OR HER IEP. When a child with a disability is to be placed outside of the district of residence, the receiving agency, institution, ~~institute charter school, or school district~~ ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, OR ELIGIBLE FACILITY providing the services shall cooperate in the development of the ~~individual educational program~~ IEP. The ~~individual educational program~~ IEP shall be coordinated with all individual plans required by other federal or state programs in order to provide for maximum coordination of service to the child with a disability, which may include the provision of appropriate SPECIAL EDUCATION services for the child with a disability, by agreement or contract with public agencies, ~~or~~ nonprofit organizations, or ~~residential child care~~ ELIGIBLE facilities. For children placed without the prior written approval of the school district of residence, the ~~individual educational program~~ shall be the responsibility of the facility providing the ~~individual educational program~~. ANY COURT OF RECORD, THE DEPARTMENT OF HUMAN SERVICES, OR ANY OTHER PUBLIC AGENCY AUTHORIZED BY LAW TO PLACE A CHILD IN AN ELIGIBLE FACILITY SHALL NOTIFY IN WRITING THE CHILD'S ADMINISTRATIVE UNIT OF RESIDENCE, THE ADMINISTRATIVE UNIT IN WHICH THE CHILD WILL RECEIVE SPECIAL EDUCATION SERVICES, AND THE DEPARTMENT OF SUCH PLACEMENT WITHIN FIFTEEN DAYS AFTER THE PLACEMENT. AN ADMINISTRATIVE UNIT OF RESIDENCE THAT DISAPPROVES OF THE PLACEMENT SHALL DO SO IN WRITING PURSUANT TO SUBSECTION (8) OF THIS SECTION.

(4.5) (a) In developing the ~~individual educational program~~ IEP pursuant to subsection (4) of this section for a ~~blind~~ child WHO IS BLIND OR VISUALLY IMPAIRED, in addition to any other requirements established by the state board, ~~of education~~, ~~the committee~~ THE IEP TEAM shall assess and determine which literacy mode or modes would be most appropriate for the child's instruction. ~~A blind child's~~

~~program~~ THE IEP FOR A CHILD WHO IS BLIND OR VISUALLY IMPAIRED shall specify the following:

(I) How the selected literacy mode or modes will be implemented as the child's primary or secondary mode for achieving literacy and why such mode or modes have been selected;

(II) How the child's instruction in the selected literacy mode or modes will be integrated into educational activities;

(III) The date on which the child's instruction in the selected mode or modes shall commence, the amount of instructional time to be dedicated to each literacy mode, and the service provider responsible for each area of instruction; and

(IV) The level of competency in the selected literacy mode or modes which the child should achieve by the end of the period covered by the ~~individual educational program~~ IEP.

(b) ~~No blind~~ A child WHO IS BLIND OR VISUALLY IMPAIRED shall NOT be denied the opportunity for instruction in braille solely because the child has some remaining vision. Any child for whom instruction in braille is determined to be beneficial shall receive such instruction as part of such child's ~~individual educational program~~ IEP.

(c) If the ~~committee~~ IEP TEAM determines that a child's ~~individual educational program~~ IEP shall include instruction in braille, such instruction shall be sufficient to enable the child to read and write effectively and efficiently at a level commensurate with the child's sighted peers of comparable physical and cognitive abilities and grade level.

(d) If the ~~committee~~ IEP TEAM determines that a child's ~~individual educational program~~ IEP shall include instruction in braille, the child shall receive such instruction from a teacher who can demonstrate competence in reading and writing braille according to standards to be established by the state board. ~~of education.~~

(e) Nothing in this subsection (4.5) shall require ~~a school district or the state charter school institute~~ AN ADMINISTRATIVE UNIT, A STATE-OPERATED PROGRAM, OR AN ELIGIBLE FACILITY to expend additional resources or hire additional personnel to implement the provisions of this section.

(f) ~~On or before June 1, 1995,~~ The department ~~of education~~ shall develop guidelines for caseload management for instructors of ~~blind~~ children WHO ARE BLIND OR VISUALLY IMPAIRED in the ~~school districts and institute charter schools of the state~~ SCHOOLS OF THE ADMINISTRATIVE UNITS. Such guidelines will evaluate how much instructional time should be allotted for ~~blind~~ children WHO ARE BLIND OR VISUALLY IMPAIRED, will reflect the varying levels of severity of such children's needs, and will be renewed and updated on a periodic basis to incorporate current research and practice.

(4.7) (a) In developing an ~~individual educational program~~ IEP pursuant to subsection (4) of this section for a child who is deaf or hard of hearing, in addition to any other requirements established by the state board, the ~~committee~~ IEP TEAM

shall consider the related services and program options that provide the child with an appropriate and equal opportunity for communication access. The ~~committee~~ IEP TEAM shall consider the child's specific communication needs and, to the extent possible under paragraph (g) of this subsection (4.7), address those needs as appropriate in the child's ~~individual educational program~~ IEP. In considering the child's needs, the ~~committee~~ IEP TEAM shall expressly consider the following:

(I) The child's individual communication mode or language;

(II) The availability to the child of a sufficient number of age, cognitive, and language peers of similar abilities;

(III) The availability to the child of deaf or hard-of-hearing adult models of the child's communication mode or language;

(IV) The provision of appropriate, direct, and ongoing language access to teachers of the deaf and hard of hearing and interpreters and other specialists who are proficient in the child's primary communication mode or language; and

(V) The provision of communication-accessible academic instruction, school services, and extracurricular activities.

(b) To enable a parent to make informed decisions concerning which educational options are best suited to the parent's child, all of the educational options provided by the ~~school district or the state charter school institute~~ ADMINISTRATIVE UNIT and available to the child at the time the child's ~~individual educational program~~ IEP is prepared shall be explained to the parent.

(c) ~~No~~ A CHILD WHO IS deaf or hard-of-hearing ~~child~~ shall NOT be denied the opportunity for instruction in a particular communication mode or language solely because:

(I) The child has some remaining hearing;

(II) The child's parents are not fluent in the communication mode or language being taught; or

(III) The child has previous experience with some other communication mode or language.

(d) Nothing in this subsection (4.7) shall preclude instruction in more than one communication mode or language for any particular child. Any child for whom instruction in a particular communication mode or language is determined to be beneficial shall receive such instruction as part of the child's ~~individual educational program~~ IEP.

(e) Notwithstanding the provisions of subparagraph (II) of paragraph (a) of this subsection (4.7), nothing in this subsection (4.7) may be construed to require that a specific number of peers be provided for a child who is deaf or hard of hearing.

(f) Nothing in this subsection (4.7) shall abrogate parental choice among public

educational programs as provided in section 22-20-109 or articles 30.5 or 36 of this title or as otherwise provided by law.

(g) Nothing in this subsection (4.7) shall require ~~a school district or the state charter school institute~~ AN ADMINISTRATIVE UNIT to expend additional resources or hire additional personnel to implement the provisions of this subsection (4.7).

(5) In formulating recommendations for placement of a child with a disability, the ~~committee~~ IEP TEAM shall:

(a) Determine, utilizing guidelines recommended by the department, whether the nature or severity of the child's disability is such that education in ~~regular~~ GENERAL EDUCATION classes with the use of supplementary aids and services cannot be achieved satisfactorily, or, when provided with supplementary aids and services, the nature or severity of the child's disability is so disruptive that the education of other children in such classes would be significantly impaired;

(b) Work cooperatively with the department of human services, when applicable;  
AND

(c) Be guided by the legislative declaration contained in section 22-20-102. ~~and~~

~~(d)~~ (5.5) THE ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM SHALL consider the cost to the ~~school district or the state charter school institute~~ ADMINISTRATIVE UNIT OR STATE-OPERATED PROGRAM when choosing between two or more appropriate placements.

(6) Requirements for the placement in special education programs of exceptional children who are identified as gifted are not applicable as stated in this section.

(7) (a) ~~When it is recommended by a school district or the state charter school institute that a child be placed in a residential setting operated by a state agency outside of the child's current district of residence, it is the duty of the current district of residence to notify the agency to which it is recommended that the child be sent, and the school district in which the agency is located, of the child's potential placement in such agency in the school district. The receiving agency and the receiving school district shall provide staff input into the final decision regarding placement. In the event that a disagreement exists between the recommending school district or the state charter school institute and the agency and school district receiving the child regarding the placement, the commissioner of education and the director of the state agency under which the facility or program in which the child is being placed is operated shall make the final determination of the placement. IF AN OUT-OF-DISTRICT PLACEMENT BY AN ADMINISTRATIVE UNIT APPEARS TO BE NECESSARY, IT IS THE RESPONSIBILITY OF THE CHILD'S IEP TEAM OF THE ADMINISTRATIVE UNIT OF RESIDENCE TO DETERMINE WHETHER THE CHILD REQUIRES A MORE RESTRICTIVE SETTING BASED ON THE UNIQUE NEEDS OF THE CHILD. IT IS THE RESPONSIBILITY OF THE SPECIAL EDUCATION DIRECTOR OF THE ADMINISTRATIVE UNIT OF RESIDENCE TO PLACE THE CHILD IN THE LEAST RESTRICTIVE PLACEMENT CONSISTENT WITH THE PLACEMENT DECISION OF THE IEP TEAM.~~

(b) ~~The agency responsible for out-of-home placement of a child with a disability;~~

~~prior to the placement of such child, shall work cooperatively with the administrative unit of attendance in which the agency wishes to place the child to ensure that the appropriate educational and residential services are available.~~ IF IT BECOMES NECESSARY FOR A COURT OR PUBLIC AGENCY TO PLACE A CHILD IN A PUBLIC PLACEMENT:

(I) PRIOR TO SUCH PUBLIC PLACEMENT, THE COURT OR PUBLIC AGENCY SHALL WORK COOPERATIVELY WITH THE AFFECTED ADMINISTRATIVE UNIT OR UNITS, AS DEFINED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS ARTICLE, TO ENSURE THAT APPROPRIATE SPECIAL EDUCATION SERVICES ARE AVAILABLE FOR THE CHILD;

(II) NOTWITHSTANDING THE PROVISIONS OF SUBPARAGRAPH (I) OF THIS PARAGRAPH (b), THE COURT OR PUBLIC AGENCY MAY MAKE THE PUBLIC PLACEMENT WITHOUT FIRST COOPERATING WITH THE AFFECTED ADMINISTRATIVE UNIT OR UNITS IF AN EMERGENCY PUBLIC PLACEMENT IS REQUIRED FOR THE SAFETY OF THE CHILD.

~~(IV) (c) In no event shall THE PUBLIC AGENCY PLACE a child be placed in an administrative unit OR ELIGIBLE FACILITY which THAT is unable to ensure the provision of educational and residential SPECIAL EDUCATION services which THAT are appropriate for said THE child. The costs of educating such children shall be the responsibility of the school district of residence, and such school district shall pay to the administrative unit of attendance the tuition cost approved by the state board pursuant to~~ TUITION COSTS IN ACCORDANCE WITH section 22-20-109.

(8) ~~When a child is placed without the written approval of the school district of residence, any excess costs shall be the financial responsibility of the court, parent, guardian, or agency making such placement. If the school district of residence~~ NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (c) OF SUBSECTION (7) OF THIS SECTION, IF A COURT OR PUBLIC AGENCY MAKES A PUBLIC PLACEMENT BUT FAILS TO COMPLY WITH THE NOTIFICATION REQUIREMENTS OF SUBSECTION (4) OF THIS SECTION, SUCH COURT OR PUBLIC AGENCY SHALL BE RESPONSIBLE FOR THE TUITION COSTS FOR THE CHILD UNTIL SUCH TIME AS THE REQUIRED NOTIFICATION IS MADE. IF A CHILD'S ADMINISTRATIVE UNIT OF RESIDENCE does not provide written notice of disapproval of A PLACEMENT IN AN ELIGIBLE FACILITY BY A COURT OR A PUBLIC AGENCY within fifteen days ~~of~~ AFTER THE notification MADE PURSUANT TO SUBSECTION (4) OF THIS SECTION, the placement shall be deemed to be approved. AN ADMINISTRATIVE UNIT OF RESIDENCE MAY DISAPPROVE A PLACEMENT IN AN ELIGIBLE FACILITY BY A COURT OR PUBLIC AGENCY ONLY ON THE BASIS OF THE UNAVAILABILITY OF APPROPRIATE SPECIAL EDUCATION SERVICES IN THE ADMINISTRATIVE UNIT IN WHICH THE CHILD WILL BE PLACED. IF THE ADMINISTRATIVE UNIT OF RESIDENCE DISAPPROVES THE PLACEMENT IN THE ELIGIBLE FACILITY, IT SHALL ENSURE THAT THE CHILD RECEIVES A FREE APPROPRIATE PUBLIC EDUCATION UNTIL AN APPROPRIATE PLACEMENT CAN BE DETERMINED. ~~If the school district~~ ADMINISTRATIVE UNIT of residence disapproves ~~such~~ THE placement it IN THE ELIGIBLE FACILITY, THE DISAPPROVAL shall be subject to appeal as provided for in subsection (3) of this section.

(9) If a teacher of a child with a disability determines that the child's presence in a general education classroom is so disruptive that other children's learning in the class is significantly impaired, the teacher may utilize the district's or the state

charter school institute's regular in-school disciplinary procedure unless it would be inconsistent with the child's ~~individual educational program or~~ IEP OR WOULD CONSTITUTE A DISCIPLINARY CHANGE OF PLACEMENT AS DEFINED BY THE RULES PROMULGATED BY THE STATE BOARD. ALTERNATIVELY, THE TEACHER may request a review of the ~~individual educational program or~~ CHILD'S IEP, behavior plan, or both to consider changes in services or placement. In making any such determination for placement or A plan of discipline for the child, ~~the teacher, the principal, and the staffing committee, if applicable, shall use the guidelines recommended by the department~~ THE IEP TEAM SHALL APPLY THE RULES PROMULGATED BY THE STATE BOARD REGARDING IEP REVIEWS AND SCHOOL DISCIPLINE PROCEDURES AND PROTECTIONS FOR CHILDREN WITH DISABILITIES.

(10) ~~A school, school district, the state charter school institute, or an administrative unit that receives funds under article 54 of this title shall not implement or enforce any rule or policy of the state department of education that requires or permits an administrative unit to appoint a person to act as an educational surrogate parent for the purpose of making educational decisions regarding a child's placement in special education services or for the purpose of consenting or refusing to consent to assessments prior to placement when the child's parent is unknown, unavailable, or fails to respond after reasonable efforts.~~

**SECTION 9.** 22-20-109 (1) and (2), the introductory portion to 22-20-109 (7), and 22-20-109 (7) (f) and (7) (g), Colorado Revised Statutes, are amended to read:

**22-20-109. Tuition.** (1) An administrative unit of residence may contract with another administrative unit, ~~with a community-centered board, or with a facility, as defined by the department in its regulations,~~ AN ELIGIBLE FACILITY approved by the state board pursuant to section 22-2-107 (1) (p) to provide a special education program for a child with a disability. In such an instance, the community-centered board or the ELIGIBLE facility where the child receives a special education program shall document to the department a list of costs of providing such special education program and the applicable revenues. Notwithstanding any provision of section 22-32-115 to the contrary, the tuition charge for educating a child with a disability in a community-centered board or ~~a~~ AN ELIGIBLE facility shall be established by the department and approved by the state board. Such tuition charge shall be the maximum amount the ~~school district~~ ADMINISTRATIVE UNIT of residence shall be obligated to pay for the special ~~educational~~ EDUCATION program; except that the school district of residence may pay a higher tuition charge than the charge established and approved pursuant to this subsection (1) for students in need of specialized services, which services were included in the ~~individual education plan~~ IEP but ~~which~~ were not included in the tuition charge established pursuant to this subsection (1).

(2) The state board shall promulgate rules ~~and regulations~~ to define the contract approval process, to define the types and amounts of costs in excess of the state average per pupil operating revenues, as defined in section 22-54-103 (12), and to define other applicable revenues that a school district of residence of a child with a disability shall pay as tuition to educate that child elsewhere at a community-centered board or ~~a~~ AN ELIGIBLE facility approved by the state board pursuant to section 22-2-107 (1) (p). These rules ~~and regulations~~ shall include, but ~~shall~~ NEED not be limited to, the limitations on the number of staff members per

number of students, the amount of equipment necessary for classroom instruction of the child, the number of days of school, and any other expenses involved in the provision of educational services as determined by the child's ~~individual educational program~~ IEP. However, these rules shall not require that, in calculating the amount of the tuition charge for educating a child with a disability in any community-centered board or ELIGIBLE facility, the costs incurred by a community-centered board or ELIGIBLE facility in providing such special education program be reduced by the amount of revenues, if any, received by such community-centered board or ELIGIBLE facility as donations or special education grants. The school district of residence shall be responsible for paying as tuition any excess costs above the state average per pupil operating revenues to provide these services.

(7) For the 2004-05 budget year and budget years thereafter, the state board shall ~~adopt~~ PROMULGATE rules pertaining to the education of children with disabilities in charter schools and rules pertaining to the education of children with disabilities through on-line programs. Both sets of rules shall include, but need not be limited to, rules to:

(f) ~~Specify the minimum number of hours of educational instruction that a charter school or on-line program shall provide to children with disabilities;~~

(g) ~~Specify the methods of delivery of educational services provided to children with disabilities by a charter school or an on-line program;~~

**SECTION 10.** 22-20-111, Colorado Revised Statutes, is amended to read:

**22-20-111. Equipment.** An administrative unit, A STATE-OPERATED PROGRAM, OR AN ELIGIBLE FACILITY may purchase equipment for the instruction or ~~assessment~~ SUPPORT of children with disabilities.

**SECTION 11.** 22-20-112, Colorado Revised Statutes, is amended to read:

**22-20-112. Length of school year.** (1) AN administrative ~~units~~ UNIT may conduct special educational programs as prescribed in this article for any length of time; except that the administrative unit must meet the minimum length of time as established by law for school districts. TO THE MAXIMUM EXTENT POSSIBLE, EACH ELIGIBLE FACILITY SHALL CONFORM THE LENGTH OF ITS REGULAR SCHOOL YEAR PROGRAM TO THE SCHEDULE OF THE REGULAR SCHOOL YEAR OF THE SCHOOL DISTRICT IN WHICH THE ELIGIBLE FACILITY IS LOCATED.

(2) EACH ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, AND ELIGIBLE FACILITY SHALL PROVIDE EXTENDED SCHOOL YEAR SERVICES TO A CHILD WITH A DISABILITY ONLY IF THE CHILD'S IEP TEAM DETERMINES THAT EXTENDED SCHOOL YEAR SERVICES ARE NECESSARY TO PROVIDE THE CHILD WITH A FREE APPROPRIATE PUBLIC EDUCATION.

**SECTION 12.** 22-20-116, Colorado Revised Statutes, is amended to read:

**22-20-116. Minimum standards for educational interpreters for the deaf in the public schools - committee to recommend standards - rules.** (1) The general

assembly hereby finds that interpreting services in ~~the public schools~~ ADMINISTRATIVE UNITS, STATE-OPERATED PROGRAMS, AND ELIGIBLE FACILITIES for students who are deaf or hard of hearing need to be improved and that the absence of state standards for evaluating educational interpreters allows for inconsistencies in the delivery of educational information to students who are deaf or hard of hearing. The general assembly recognizes that educational interpreters in ~~the public school setting~~ SUCH EDUCATIONAL SETTINGS must not only interpret the spoken word but must also convey concepts and facilitate the student's understanding of the educational material. The general assembly also finds that standards should be based on performance and should be developed with input from the deaf community and from persons involved in instructing deaf students. Therefore, the general assembly enacts this section for the purpose of developing appropriate standards for persons employed in ~~the public schools~~ as educational interpreters IN ADMINISTRATIVE UNITS, STATE-OPERATED PROGRAMS, AND ELIGIBLE FACILITIES.

(2) For purposes of this section, "educational interpreter" means a person who uses sign language in ~~the public school setting~~ AN ADMINISTRATIVE UNIT, A STATE-OPERATED PROGRAM, OR AN ELIGIBLE FACILITY for purposes of facilitating communication between users and nonusers of sign language and who is fluent in the languages used by both deaf and nondeaf persons.

(3) to (5) Repealed.

(6) After review and study of the recommendations of the interpreter standards committee, the state board, on or before July 1, 1998, shall promulgate rules setting minimum standards for educational interpreters for the deaf employed by or in ~~the public schools in this state~~ AN ADMINISTRATIVE UNIT, A STATE-OPERATED PROGRAM, OR AN ELIGIBLE FACILITY. The state board may revise and amend such minimum standards as it deems necessary. The state board shall promulgate rules that set forth the documentation that a person seeking employment as an educational interpreter for the deaf in ~~a public school~~ must submit to the employing ~~school district or to the state charter school institute~~ ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, OR ELIGIBLE FACILITY.

(7) On or after July 1, 2000, in addition to any other requirements that ~~a school district or the state charter school institute establishes~~ AN ADMINISTRATIVE UNIT, A STATE-OPERATED PROGRAM, OR AN ELIGIBLE FACILITY MAY ESTABLISH, any person employed as an educational interpreter for deaf students on a full-time or part-time basis by or in ~~a school district or an institute charter school~~ AN ADMINISTRATIVE UNIT, A STATE-OPERATED PROGRAM, OR AN ELIGIBLE FACILITY shall meet the minimum standards for educational interpreters for the deaf as established by rules of the state board.

**SECTION 13. Effective date.** This act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution (August 9, 2006, if adjournment sine

die is on May 10, 2006); except that, if a referendum petition is filed against this act or an item, section, or part of this act within such period, then the act, item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

Approved: April 4, 2006