

CHAPTER 360

EDUCATION - PUBLIC SCHOOLS

SENATE BILL 07-255

BY SENATOR(S) Keller, Tapia, Johnson, Boyd, Morse, Tochtrop, Williams, and Shaffer;
also REPRESENTATIVE(S) Buescher, Pommer, White, Butcher, Carroll M., Kerr A., Peniston, and Todd.

AN ACT

CONCERNING THE DISTRIBUTION OF CHILD FIND RESPONSIBILITIES UNDER THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004", AND MAKING AN APPROPRIATION THEREFOR.

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. (1) The general assembly, recognizing the obligation of the state of Colorado to provide educational opportunities to all children that will enable them to lead fulfilling and productive lives, declares that the purpose of this article is to provide means for IDENTIFYING AND educating those children who are exceptional. To this end, it is necessary to ~~establish a~~ DEFINE SPECIFIC RESPONSIBILITIES FOR IDENTIFYING AND SERVING CHILDREN WITH DISABILITIES THAT APPROPRIATELY REFLECT THE continuum of services 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 child's~~ A CHILD'S INDIVIDUAL FAMILY SERVICE PROGRAM FOR A CHILD FROM BIRTH THROUGH TWO YEARS OF AGE AND A CHILD'S individualized education program team FOR A CHILD FROM THREE TO TWENTY-ONE YEARS OF AGE as designated by the governing board of the responsible administrative unit or by the governing authority of a state-operated program.

(2) It is the intent of the general assembly, in keeping with accepted educational principles, that children FROM THREE TO TWENTY-ONE YEARS OF AGE with disabilities shall be educated in the least restrictive environment to the maximum

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

extent appropriate. To this end, the services of special education personnel shall be utilized within the general school programs to the maximum extent permitted by good educational practices, both in rendering services directly to children and in providing consultative services to general classroom teachers.

(3) It is further the intent of this article to ~~assure~~ ENSURE that there is a coordination of all services available to children with disabilities and to promote ~~the entering into~~ INTERAGENCY OPERATING agreements or contracts between administrative units, other public agencies, nonprofit organizations, and eligible facilities for the provision of appropriate services for children with disabilities.

(4) 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~~ 20 U.S.C. sec. 1400 et seq., as amended, and its implementing regulations, 34 CFR part 300 AND 34 CFR PART 303, AS THEY PERTAIN TO CHILD FIND, in order to minimize the number of rules, regulations, and policies to which administrative units, state-operated programs, and eligible facilities are subject.

(5) ~~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)~~ (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)~~ (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.

(4) "CHILD FIND" MEANS THE PROGRAM COMPONENT OF THE IDEA THAT REQUIRES STATES TO FIND, IDENTIFY, LOCATE, EVALUATE, AND SERVE ALL CHILDREN WITH DISABILITIES, FROM BIRTH TO TWENTY-ONE YEARS OF AGE. SPECIFIC RESPONSIBILITIES FOR CHILD FIND ARE DESCRIBED IN SECTION 22-20-118. CHILD FIND INCLUDES:

(a) PART C CHILD FIND, WHICH MEANS THE PROGRAM COMPONENT OF IDEA THAT REQUIRES STATES TO FIND, IDENTIFY, LOCATE, EVALUATE, AND SERVE CHILDREN FROM BIRTH THROUGH TWO YEARS OF AGE; AND

(b) PART B CHILD FIND, WHICH MEANS THE PROGRAM COMPONENT OF IDEA THAT REQUIRES STATES TO FIND, IDENTIFY, LOCATE, EVALUATE, AND SERVE CHILDREN FROM THREE TO TWENTY-ONE YEARS OF AGE.

~~(1.5)~~ (5) (a) "Children with disabilities" means those persons ~~between the ages of~~ FROM THREE ~~and~~ TO TWENTY-ONE YEARS OF AGE who, by reason of one or more of the following conditions, are unable to receive reasonable benefit from general education: Long-term physical impairment or illness; significant limited intellectual capacity; significant identifiable emotional disorder; specific learning disability; or speech or language impairments.

(b) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPH (a) OF THIS SUBSECTION (5), FOR PURPOSES OF CHILD FIND ACTIVITIES, "CHILDREN WITH DISABILITIES" MEANS PERSONS FROM BIRTH TO TWENTY-ONE YEARS OF AGE.

~~(1.7)~~ (6) "Communication mode or language" means one or more of the following systems or methods of communication applicable to 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)~~ (7) "Department" means the department of education, CREATED AND EXISTING PURSUANT TO SECTION 24-1-115, C.R.S.

~~(2.5)~~ (8) "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)~~ (9) "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)~~ (10) "Equipment" means that equipment used especially for the instruction or assessment of children with disabilities ~~which~~ THAT is approved by the state board. The state board shall publish a list of the types of approved equipment.

(11) "EVALUATION" MEANS:

(a) FOR PURPOSES OF PART C CHILD FIND, PROCEDURES USED TO DETERMINE A CHILD'S INITIAL AND CONTINUING ELIGIBILITY FOR PART C CHILD FIND, INCLUDING BUT NOT LIMITED TO:

(I) DETERMINING THE STATUS OF THE CHILD IN EACH OF THE DEVELOPMENTAL AREAS;

(II) IDENTIFYING THE CHILD'S UNIQUE STRENGTHS AND NEEDS;

(III) IDENTIFYING ANY EARLY INTERVENTION SERVICES THAT MIGHT SERVE THE CHILD'S NEEDS; AND

(IV) IDENTIFYING PRIORITIES AND CONCERNS OF THE FAMILY AND RESOURCES TO WHICH THE FAMILY HAS ACCESS;

(b) FOR THE PURPOSES OF PART B CHILD FIND, PROCEDURES USED UNDER IDEA FOR CHILDREN WITH DISABILITIES TO DETERMINE WHETHER A CHILD HAS A DISABILITY AND THE NATURE AND EXTENT OF SPECIAL EDUCATION AND RELATED SERVICES THAT THE CHILD WILL NEED.

~~(3.4)~~ (12) "Exceptional children" means:

(a) Those children defined in subsection ~~(1.5)~~ (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 FROM THREE TO TWENTY-ONE YEARS OF AGE, ~~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~~ CHILDREN WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE, AND 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 promulgate rules for the identification of exceptional children who, under the provisions of this article, may become eligible for special educational services.~~

(b) THOSE CHILDREN DEFINED IN SUBSECTION (13) OF THIS SECTION AS GIFTED CHILDREN. PURSUANT TO SECTION 22-20-104.5 (1), AN ADMINISTRATIVE UNIT SHALL ADOPT AND SUBMIT TO THE DEPARTMENT A PROGRAM PLAN TO IDENTIFY AND SERVE GIFTED CHILDREN.

~~(3.7)~~ (13) "Gifted children" means those persons ~~between the ages of~~ FROM five ~~and~~ TO twenty-one YEARS OF AGE whose abilities, talents, and potential for accomplishments are so outstanding that they require special provisions to meet their educational needs.

(14) "IDEA" MEANS THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED, AND ITS IMPLEMENTING REGULATIONS, 34 CFR PART 300 AND 34 CFR PART 303, AS THEY PERTAIN TO CHILD FIND.

~~(3.8)~~ (15) "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.

(16) "INDIVIDUAL FAMILY SERVICE PLAN" OR "IFSP" MEANS A WRITTEN STATEMENT FOR A CHILD FROM BIRTH THROUGH TWO YEARS OF AGE WITH A DISABILITY, WHICH STATEMENT IS DEVELOPED, REVIEWED, AND REVISED IN ACCORDANCE WITH PART C CHILD FIND OF IDEA AND WITH RULES PROMULGATED BY THE DEPARTMENT OF HUMAN SERVICES.

~~(3.9)~~ (17) "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)~~ (18) "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. To the maximum extent appropriate, as determined by the 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 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)~~ (19) "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~~ THAT 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~~ THAT 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~~ THAT depends upon the apprehension of regular-sized printed material.

~~(6)~~ (20) "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)~~ (21) "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) (Deleted by amendment, L. 2006, p. 317, § 2, effective August 7, 2006.)~~

~~(9)~~ (22) "School district" means a school district organized and existing pursuant to law, but shall not include a junior college district.

~~(9.5)~~ (23) "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 OR IFSP.

~~(9.6)~~ (24) "Special educational services" or "special educational programs" means the services or programs provided to ~~exceptional~~ GIFTED children pursuant to this article.

~~(9.8)~~ (25) "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)~~ (26) "State board" means the state board of education, CREATED AND EXISTING PURSUANT TO SECTION 1 OF ARTICLE IX OF THE STATE CONSTITUTION.

~~(11)~~ (27) "State charter school institute" means the state charter school institute created pursuant to part 5 of article 30.5 of this title.

~~(12)~~ (28) "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) (a) and (1) (b), Colorado Revised Statutes, are amended to read:

22-20-104. Administration - advisory committee - rules. (1) (a) This article shall be administered by the department. Administration of this article shall include the recommendation to the state board of reasonable 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, INCLUDING BUT NOT LIMITED TO PART C CHILD FIND AND PART B CHILD FIND ACTIVITIES DESCRIBED IN SECTION 22-20-118;

(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~~" IDEA 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 comment and hearing. The rules promulgated by the state board shall be in accord with the legislative declaration set forth in ~~section~~ SECTIONS 22-20-102 AND 22-20-102.5.

SECTION 4. Article 20 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-20-118. Child find from birth through two years of age - responsibilities - interagency operating agreements - transition meetings - funding. (1) THE DEPARTMENT SHALL HAVE THE FOLLOWING RESPONSIBILITIES CONCERNING PART C CHILD FIND:

(a) TO ENSURE THAT ADMINISTRATIVE UNITS PERFORM THE NECESSARY SCREENING AND EVALUATION OF CHILDREN WITH DISABILITIES FROM BIRTH THROUGH TWO YEARS OF AGE;

(b) TO PROMULGATE RULES AND ADMINISTRATIVE REMEDIES TO ENSURE THAT THE IDEA TIMELINES AND REQUIREMENTS OF PART C CHILD FIND ARE MET BY ADMINISTRATIVE UNITS AND TO ESTABLISH A PROCESS FOR ADDRESSING SITUATIONS WHERE ADMINISTRATIVE UNITS FAIL TO MEET THE TIMELINES AND REQUIREMENTS;

(c) TO ESTABLISH STATE LEVEL INTERAGENCY OPERATING AGREEMENTS, INCLUDING BUT NOT LIMITED TO:

(I) WORKING WITH THE DEPARTMENT OF HUMAN SERVICES AS NECESSARY AND WITHIN EXISTING RESOURCES TO ASSIST IN DEVELOPING AND IMPLEMENTING THE DEPARTMENT OF HUMAN SERVICES' STATEWIDE PLAN DESCRIBED IN SECTION 27-10.5-103, C.R.S., FOR COMMUNITY EDUCATION OUTREACH AND AWARENESS EFFORTS RELATED TO PART C CHILD FIND AND THE AVAILABILITY OF EARLY INTERVENTION SERVICES. THE DEPARTMENT'S RESPONSIBILITIES SHALL BE LIMITED TO THOSE ACTIVITIES THAT RELATE TO FACILITATING THE IMPLEMENTATION OF PART

C CHILD FIND ACTIVITIES AND A COLLABORATIVE SYSTEM OF EARLY INTERVENTION SERVICES.

(II) COORDINATING A PROCESS WITH THE DEPARTMENT OF HUMAN SERVICES TO PROVIDE FOR, ACCEPT, AND ASSIST WITH REFERRALS TO FAMILIES IN FINDING THE APPROPRIATE AGENCY FOR INTAKE AND CASE MANAGEMENT AS DEFINED IN SECTION 27-10.5-102, C.R.S.;

(III) FACILITATING THE IMPLEMENTATION OF PART C CHILD FIND AND THE USE OF MEDICAID FUNDS RELATED TO PART C CHILD FIND ACTIVITIES, INCLUDING SHARING OF INFORMATION WHERE APPROPRIATE WITH THE DEPARTMENT OF HUMAN SERVICES OR THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AS IT PROVIDES PART C CHILD FIND SERVICES, PROVIDED THAT BOTH DEPARTMENTS ACT IN COMPLIANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC. 1320, AS AMENDED, AND THE FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g, AND ALL FEDERAL REGULATIONS AND APPLICABLE GUIDELINES ADOPTED THERETO; AND

(IV) MONITORING SCREENINGS AND EVALUATIONS BY ADMINISTRATIVE UNITS OF CHILDREN WITH DISABILITIES.

(2) THE ADMINISTRATIVE UNITS SHALL:

(a) ESTABLISH LOCAL LEVEL INTERAGENCY OPERATING AGREEMENTS WITH COMMUNITY CENTERED BOARDS, AS DESCRIBED IN SECTION 27-10.5-102, C.R.S., AS NECESSARY TO ASSIST IN DEVELOPING AND IMPLEMENTING THE DEPARTMENT OF HUMAN SERVICES' STATEWIDE PLAN DEFINED IN SECTION 27-10.5-103, C.R.S., FOR COMMUNITY EDUCATION OUTREACH AND AWARENESS EFFORTS RELATED TO PART C CHILD FIND AND THE AVAILABILITY OF EARLY INTERVENTION SERVICES. THE ADMINISTRATIVE UNITS' RESPONSIBILITIES SHALL BE LIMITED TO THOSE ACTIVITIES THAT RELATE TO FACILITATING THE IMPLEMENTATION OF PART C CHILD FIND ACTIVITIES AND A COLLABORATIVE SYSTEM OF EARLY INTERVENTION SERVICES.

(b) SCREEN AND EVALUATE CHILDREN FROM BIRTH THROUGH TWO YEARS OF AGE WHO HAVE BEEN REFERRED TO THE ADMINISTRATIVE UNIT FOR SERVICES UNDER PART C CHILD FIND. ADMINISTRATIVE UNITS MAY ELECT TO SERVE CHILDREN FROM BIRTH THROUGH TWO YEARS OF AGE IDENTIFIED AS NEEDING SERVICES UNDER PART C CHILD FIND AS DEFINED IN SECTION 22-20-103 (4) (a).

(c) PURSUANT TO THE DEVELOPMENT OF THE IFSP, COORDINATE WITH COMMUNITY CENTERED BOARDS TO HAVE THE SAME REPRESENTATIVE WHO CONDUCTS A PART C CHILD FIND EVALUATION ATTEND THE MANDATORY MEETING AT WHICH THE FAMILY RECEIVES INFORMATION CONCERNING THE RESULTS OF THE PART C CHILD FIND EVALUATION; AND

(d) PURSUANT TO SECTION 27-10.5-140 (1), COORDINATE WITH COMMUNITY CENTERED BOARDS, THE DEPARTMENT OF HUMAN SERVICES, AND THE DEPARTMENT TO ASSIST A CHILD WITH DISABILITIES AS HE OR SHE TRANSITIONS FROM THE DEVELOPMENTAL DISABILITIES SYSTEM INTO THE PUBLIC EDUCATION SYSTEM NO LATER THAN THE AGE OF THREE.

SECTION 5. 27-10.5-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

27-10.5-102. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "CHILD FIND" MEANS THE PROGRAM COMPONENT OF IDEA THAT REQUIRES STATES TO FIND, IDENTIFY, LOCATE, EVALUATE, AND SERVE ALL CHILDREN WITH DISABILITIES, FROM BIRTH TO TWENTY-ONE YEARS OF AGE. SPECIFIC RESPONSIBILITIES FOR CHILD FIND ARE DESCRIBED IN SECTION 22-20-118, C.R.S. CHILD FIND INCLUDES:

(a) PART C CHILD FIND, WHICH MEANS THE PROGRAM COMPONENT OF IDEA THAT REQUIRES STATES TO FIND, IDENTIFY, LOCATE, EVALUATE, AND SERVE CHILDREN FROM BIRTH THROUGH TWO YEARS OF AGE; AND

(b) PART B CHILD FIND, WHICH MEANS THE PROGRAM COMPONENT OF IDEA THAT REQUIRES STATES TO FIND, IDENTIFY, LOCATE, EVALUATE, AND SERVE CHILDREN FROM THREE TO TWENTY-ONE YEARS OF AGE.

(13.5) "EVALUATION" MEANS:

(a) FOR PURPOSES OF PART C CHILD FIND, PROCEDURES USED TO DETERMINE A CHILD'S INITIAL AND CONTINUING ELIGIBILITY FOR PART C CHILD FIND, INCLUDING BUT NOT LIMITED TO:

(I) DETERMINING THE STATUS OF THE CHILD IN EACH OF THE DEVELOPMENTAL AREAS;

(II) IDENTIFYING THE CHILD'S UNIQUE STRENGTHS AND NEEDS;

(III) IDENTIFYING ANY EARLY INTERVENTION SERVICES THAT MIGHT SERVE THE CHILD'S NEEDS; AND

(IV) IDENTIFYING PRIORITIES AND CONCERNS OF THE FAMILY AND RESOURCES TO WHICH THE FAMILY HAS ACCESS;

(b) FOR THE PURPOSES OF PART B CHILD FIND, PROCEDURES USED UNDER IDEA FOR CHILDREN WITH DISABILITIES TO DETERMINE WHETHER A CHILD HAS A DISABILITY AND THE NATURE AND EXTENT OF SPECIAL EDUCATION AND RELATED SERVICES THAT THE CHILD WILL NEED.

(17.5) "IDEA" MEANS THE FEDERAL "INDIVIDUALS WITH DISABILITIES EDUCATION IMPROVEMENT ACT OF 2004", 20 U.S.C. SEC. 1400 ET SEQ., AS AMENDED, AND ITS IMPLEMENTING REGULATIONS, 34 CFR PART 303.

SECTION 6. 27-10.5-103, Colorado Revised Statutes, is amended to read:

27-10.5-103. Duties of the executive director - rules. (1) In order to implement the provisions of this article, the executive director shall, subject to available appropriations, carry out the following duties:

(a) Prepare a statewide plan for the provision of services and supports for persons with developmental disabilities based upon input from persons with developmental disabilities, their families, community centered boards, service agencies, and other interested persons. The statewide plan shall consider state and local needs.

(b) Conduct monitoring and review activities ~~which~~ THAT include community centered boards and service agencies;

(c) Provide or obtain training and technical assistance through community centered boards and service agencies in order to improve the quality of services and supports provided to persons with developmental disabilities;

(d) Prepare and transmit annually to the governor and the joint budget committee of the general assembly, in the form and manner prescribed pursuant to section 24-1-136, C.R.S., a report detailing the FOLLOWING INFORMATION, AS AVAILABLE AND APPROPRIATE, THAT SHALL BE BROKEN DOWN INTO DESIGNATED SERVICE AREAS AS WELL AS PROVIDED IN AN OVERALL STATEWIDE FORMAT:

(I) THE total number of persons receiving services pursuant to this article;

(II) The types of services and supports provided;

(III) The costs of services and supports regardless of funding source;

(IV) An evaluation of the quality of the services and supports rendered; ~~and~~

(V) An evaluation of the effectiveness of the services and supports rendered in implementing the individualized plans of persons receiving services;

(VI) The numbers, types, and resolution of appeals ~~which~~ THAT were heard by the department arising from disputes specified in section 27-10.5-107; and

(VII) The number of persons determined to be eligible to receive services and supports who are not receiving services or supports pursuant to this article along with an analysis of the reasons they are not receiving services and supports; ~~Information specified in this paragraph (d), as available and appropriate, shall be broken down into designated service areas as well as provided in an overall statewide format.~~

(e) Designate a community centered board in each designated service area in the state;

(f) Consistent with the policies adopted by the department of health care policy and financing, implement the provision of home- and community-based services to eligible persons with developmental disabilities and pursue other medicaid-funded services determined by the department to be appropriate for persons with developmental disabilities, pursuant to part 4 of article 6 of title 25.5, C.R.S., and subject to available appropriations; ~~and~~

(g) Promote effective coordination with agencies serving persons with developmental disabilities in order to improve continuity of services and supports

for persons facing life transitions from toddler to preschool, school to adult life, and work to retirement; AND

(h) CONDUCT APPROPRIATE PART C CHILD FIND ACTIVITIES AS DESCRIBED IN SECTION 27-10.5-140. PART C CHILD FIND ACTIVITIES CONDUCTED BY THE DEPARTMENT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, CASE MANAGEMENT, REFERRAL, TRANSITIONS, AND PUBLIC EDUCATION OUTREACH AND AWARENESS OF EARLY INTERVENTION SERVICES.

(2) The executive director shall adopt such rules, in accordance with section 24-4-103, C.R.S., as are necessary to carry out the provisions and purposes of this article, including but not limited to the following subjects:

(a) Standards for services and supports, including preparation of individualized plans;

(b) The designation of community centered boards and the organization of ~~such~~ THOSE entities, including standards of organization, staff qualifications, and other factors necessary to ~~insure~~ ENSURE program integrity;

(c) Purchase of services and supports and financial administration;

(d) Procedures for resolving disputes over eligibility determination and the modification, denial, or termination of services;

(e) Eligibility determination and the criteria for ~~such~~ determination, admission to programs, and the functions of the referral and placement committees;

(f) Systems of quality assurance and data collection;

(g) The rights of a person receiving services;

(h) Confidentiality of records of a person receiving services;

(i) Designation of authorized representatives and delineation of their rights and duties pursuant to this article; ~~and~~

(j) Repealed.

(k) (I) The establishment of guidelines and procedures for authorization of individuals for administration of nutrition and fluids through gastrostomy tubes.

(II) The department shall require that a service agency providing residential or day program services or supports have a staff member qualified pursuant to subparagraph (III) of this paragraph (k) on duty at any time the facility administers said nutrition and fluids through gastrostomy tubes, and that the facility maintain a written record of each nutrient or fluid administered to each person receiving services, including the time and the amount of the nutrient or fluid.

(III) ~~Any~~ AN individual who is not otherwise authorized by law to administer nutrition and fluids through gastrostomy tubes shall be allowed to perform ~~such~~ THE

duties only under the supervision of a licensed nurse or physician. ~~Any~~ AN individual who administers nutrition and fluids in compliance with the provisions of this paragraph (k) shall be exempt from the licensing requirements of the "Colorado Medical Practice Act" and the "Nurse Practice Act". Nothing in this paragraph (k) shall be deemed to authorize the administration of medications through gastrostomy tubes. ~~Any~~ AN individual administering medications through gastrostomy tubes shall be subject to the requirements of part 3 of article 1.5 of title 25, C.R.S.

(IV) For purposes of this paragraph (k), "administration" means assisting a person in the ingestion of nutrition or fluids according to the direction and supervision of a licensed nurse or physician.

(V) Repealed.

(1) CHILD FIND ACTIVITIES, AS DESCRIBED IN SECTION 27-10.5-140.

(3) (Deleted by amendment, L. 92, p. 1357, § 3, effective July 1, 1992.)

SECTION 7. 27-10.5-105 (2), Colorado Revised Statutes, is amended to read:

27-10.5-105. Community centered boards - designation - purchase of services and supports by community centered boards. (2) Once a community centered board has been designated pursuant to this section, ~~subject to available appropriations~~; it shall, SUBJECT TO AVAILABLE APPROPRIATIONS:

(a) Be under the control and direction of a board of directors or trustees comprised of one or more persons from each of the following categories:

(I) Interested persons representing the community at large;

(II) Family members of persons with developmental disabilities who are receiving services or supports; and

(III) Persons with developmental disabilities who are receiving services or supports.

(b) Adopt bylaw provisions to ensure that:

(I) Members of the governing board are prohibited from voting on issues in which they have a conflict of interest; ~~that~~

(II) Staff members of the community centered board and employees or board members of service agencies within the designated service area shall not serve on the governing board; ~~that~~

(III) Staff members of the community centered board and employees or board members of service agencies within the designated service area are prohibited from voting in elections for members of the governing board; and ~~that~~

(IV) Board meetings shall be scheduled after adequate notice and shall be open

to the public; except that by vote of a two-thirds majority of members present the board may elect to address the following matters in executive session:

(A) The purchase, acquisition, lease, transfer, or sale of any real, personal, or other property interest;

(B) Conferences with an attorney for the purpose of receiving legal advice on specific legal questions;

(C) Matters required to be kept confidential by federal or state law or rules or regulations;

(D) Specialized details of security arrangements or investigations;

(E) Determining positions relative to matters that may be subject to negotiations;

(F) Developing strategy for negotiations and instructing negotiators; and

(G) Personnel matters.

(c) Determine the needs of eligible persons within the community centered board designated service area and prepare and implement a long-range plan and annual updates to that plan for the development and coordination of services and supports to address those needs. The needs determination and designated service area plans or annual update shall be submitted to the department.

(d) Determine eligibility, BASED IN PART UPON INFORMATION RECEIVED CONCERNING THE SCREENING AND EVALUATION PERFORMED BY THE ADMINISTRATIVE UNITS PURSUANT TO SECTION 22-20-118, C.R.S., FOR A CHILD WITH DISABILITIES WHO IS LESS THAN THREE YEARS OF AGE, and develop individualized plans for persons with developmental disabilities who ~~have applied~~ ARE ELIGIBLE for such services and supports pursuant to section 27-10.5-106. AN INDIVIDUALIZED PLAN FOR A CHILD WITH DISABILITIES WHO IS LESS THAN THREE YEARS OF AGE SHALL BE DEVELOPED IN COLLABORATION WITH A REPRESENTATIVE FROM THE ADMINISTRATIVE UNIT WHO PARTICIPATED IN THE CHILD'S SCREENING AND EVALUATION PERFORMED PURSUANT TO SECTION 22-20-118, C.R.S. THE REPRESENTATIVE SHALL PARTICIPATE IN THE INITIAL MEETING FOR THE DEVELOPMENT OF THE CHILD'S INDIVIDUALIZED PLAN.

(e) Provide case management services, including service and support coordination and periodic reviews, for persons receiving services and families with children with developmental disabilities;

(f) Establish a referral and placement committee, in conformance with department rules and regulations, to provide recommendations on placement for persons receiving services and access to programs based on identified eligibility criteria;

(g) Obtain or provide early intervention services and supports including:

(I) Service and support coordination with families of eligible infants and toddlers. The purpose of service and support coordination is to enable families to utilize

service systems to meet their needs in an effective manner and increase their confidence and competence. Service and support coordination is to be rendered in an interagency context which emphasizes interagency collaboration. Families shall have, to the extent possible, a choice as to who shall perform certain facets of service and support coordination as established in the family's individualized plan.

(II) Coordination of early intervention services and supports with local agencies and other community resources at the local level to avoid duplication and fragmentation of the early intervention program. The community centered board shall:

(A) Coordinate with the local interagency effort regarding outreach, identification, screening, and multidisciplinary assessment, and eligibility determination for families served by the community centered boards who request such services;

(B) Coordinate with the local family support services program;

(C) Coordinate with appropriate state agencies providing programs for infants and toddlers;

(h) Take steps to notify eligible persons, and their families as appropriate, regarding the availability of services and supports;

(i) Establish a human rights committee. Such committee shall, to the extent possible, be comprised of two professional persons trained in the application of behavior development techniques and three representatives of persons receiving services, their parents, legal guardians, or authorized representatives. No employee or board member of a service agency within the community centered board's designated service area shall serve as a member of the human rights committee.

(j) PURSUANT TO SECTION 27-10.5-103, COLLABORATE WITH THE DEPARTMENT AS IT DEVELOPS AND IMPLEMENTS A STATEWIDE PLAN FOR PUBLIC EDUCATION OUTREACH AND AWARENESS EFFORTS RELATED TO PART C CHILD FIND AND THE AVAILABILITY OF EARLY INTERVENTION SERVICES.

SECTION 8. 27-10.5-106 (2) and (3), Colorado Revised Statutes, are amended to read:

27-10.5-106. Eligibility determination - individualized plan - periodic review.

(2) Following intake and assessment by the designated community centered board, an individualized plan shall be developed within thirty days after the community centered board has determined that a person is eligible for services and supports. THE INDIVIDUALIZED PLAN FOR A CHILD WITH DISABILITIES WHO IS LESS THAN THREE YEARS OF AGE SHALL BE DEVELOPED IN COMPLIANCE WITH IDEA PART C AND IN COORDINATION WITH IDEA PART C CHILD FIND EVALUATIONS WHERE APPLICABLE, INCLUDING THE MANDATORY INDIVIDUALIZED PLAN MEETING AT WHICH THE FAMILY RECEIVES INFORMATION CONCERNING THE RESULTS OF THE CHILD FIND EVALUATION PERFORMED BY ADMINISTRATIVE UNITS PURSUANT TO ARTICLE 20 OF TITLE 22, C.R.S.

(3)(a) Each person receiving services shall receive periodic and adequate reviews to ascertain whether ~~planned~~ THE services and supports SPECIFIED IN HIS OR HER INDIVIDUALIZED PLAN have been provided, to determine the appropriateness of current services and supports, to identify whether THE results ~~have been achieved~~ as specified in ~~such~~ THE person's individualized plan HAVE BEEN ACHIEVED, and to modify and revise current services or supports to meet the identified needs of the person receiving services. MODIFICATIONS OR REVISIONS TO THE INDIVIDUALIZED PLAN FOR A CHILD WITH DISABILITIES WHO IS LESS THAN THREE YEARS OF AGE SHALL BE DEVELOPED IN COMPLIANCE WITH IDEA.

(b) In order to accurately review ~~these~~ THE services and supports BEING PROVIDED, the community centered board or regional center may make cognitive, physical, medical, behavioral, social, vocational, educational, or other NECESSARY types of evaluations of ~~persons~~ A PERSON receiving services. The reviews shall be supervised by a developmental disabilities professional. ~~and~~ The person receiving services, the parents or guardian of a minor, or the guardian of the person receiving services, and the authorized representative of the person receiving services may attend and shall receive adequate advance notice of ~~such~~ THE reviews. Parental or legal guardian consent must be obtained prior to administering evaluations for program review to minors. The results of ~~the~~ A review shall be given to the person receiving services and to ~~such~~ THE person's parent, or guardian, as appropriate, and shall be made a part of ~~such~~ THE person's record.

(c) ~~Every such~~ A person's individualized plan shall be reviewed at least annually; EXCEPT THAT AN INDIVIDUALIZED PLAN FOR A CHILD WITH DISABILITIES WHO IS LESS THAN THREE YEARS OF AGE SHALL BE REVIEWED AS REQUIRED BY IDEA.

SECTION 9. 27-10.5-113, Colorado Revised Statutes, is amended to read:

27-10.5-113. Right to individualized plan. (1) Each person receiving services shall have an individualized plan, or ~~other such~~ A SIMILAR plan specified by the department ~~which~~ THAT qualifies as an individualized plan, THAT IS developed by the person's interdisciplinary team. THE INDIVIDUALIZED PLAN FOR A CHILD WITH DISABILITIES WHO IS LESS THAN THREE YEARS OF AGE SHALL BE DEVELOPED IN COMPLIANCE WITH IDEA AND IN COORDINATION WITH CHILD FIND EVALUATIONS WHERE APPLICABLE, INCLUDING THE MANDATORY INITIAL INDIVIDUALIZED PLAN MEETING AT WHICH THE FAMILY IS PROVIDED WITH INFORMATION CONCERNING THE RESULTS OF THE CHILD FIND EVALUATION, PERFORMED BY ADMINISTRATIVE UNITS PURSUANT TO ARTICLE 20 OF TITLE 22, C.R.S.

(2) ~~Each~~ PURSUANT TO SECTION 27-10.5-106, EACH individualized plan shall be reviewed at least annually and modified as necessary or appropriate; EXCEPT THAT AN INDIVIDUALIZED PLAN FOR A CHILD WITH DISABILITIES WHO IS LESS THAN THREE YEARS OF AGE SHALL BE REVIEWED AS REQUIRED BY IDEA. A review shall consist of, but is not limited to, the determination by the interdisciplinary team as to whether the needs of the person receiving services are accurately reflected in the plan, whether the services and supports provided pursuant to the plan are appropriate to meet the person's needs, and what actions are necessary for the plan to be achieved.

SECTION 10. Part 1 of article 10.5 of title 27, Colorado Revised Statutes, is

amended BY THE ADDITION OF A NEW SECTION to read:

27-10.5-140. Child find - responsibilities - interagency operating agreements - rules. (1) THE DEPARTMENT SHALL HAVE THE FOLLOWING RESPONSIBILITIES AND DUTIES FOR CHILDREN FROM BIRTH THROUGH TWO YEARS OF AGE WHO ARE REFERRED FOR EARLY INTERVENTION SERVICES:

(a) TO DEVELOP AND IMPLEMENT, IN COORDINATION WITH COMMUNITY CENTERED BOARDS, SERVICE AGENCIES, GOVERNMENTAL UNITS, AND THE DEPARTMENTS OF EDUCATION, PUBLIC HEALTH AND ENVIRONMENT, AND HEALTH CARE POLICY AND FINANCING, A STATEWIDE PLAN FOR PUBLIC EDUCATION OUTREACH AND AWARENESS EFFORTS RELATED TO CHILD FIND AND THE AVAILABILITY OF EARLY INTERVENTION SERVICES;

(b) TO ENSURE REFERRALS FROM THE COMMUNITY ARE ACCEPTED AND FAMILIES ARE ASSISTED IN CONNECTING WITH THE APPROPRIATE AGENCY FOR INTAKE AND CASE MANAGEMENT SERVICES;

(c) TO ENSURE INTAKE AND CASE MANAGEMENT SERVICES ARE PROVIDED AFTER A REFERRAL HAS BEEN MADE. PURSUANT TO SECTION 27-10.5-102 (3), COMMUNITY CENTERED BOARDS SHALL BE THE SINGLE ENTRY POINT FOR A FAMILY INTO THE DEVELOPMENTAL DISABILITIES SYSTEM.

(d) TO WORK WITH COMMUNITY CENTERED BOARDS, ADMINISTRATIVE UNITS, AND THE DEPARTMENT OF EDUCATION TO ASSIST A CHILD WITH DISABILITIES AS HE OR SHE TRANSITIONS FROM THE DEVELOPMENTAL DISABILITIES SYSTEM INTO THE PUBLIC EDUCATION SYSTEM AT NO LATER THAN THREE YEARS OF AGE, INCLUDING THE NEED FOR A TRANSITION CONFERENCE AT LEAST NINETY DAYS PRIOR TO A CHILD'S THIRD BIRTHDAY AND THE RESPONSIBILITIES OF THE DEPARTMENT WITH RESPECT TO THE MANDATORY TRANSITION CONFERENCE.

(2) TO FACILITATE THE IMPLEMENTATION OF CHILD FIND ACTIVITIES THAT ARE THE RESPONSIBILITY OF THE DEPARTMENT PURSUANT TO THIS SECTION, AND TO IMPLEMENT AN EFFECTIVE AND COLLABORATIVE SYSTEM OF EARLY INTERVENTION, THE DEPARTMENT SHALL ENTER INTO ANY NECESSARY INTERAGENCY OPERATING AGREEMENTS AT THE STATE LEVEL, AND COMMUNITY CENTERED BOARDS AND OTHER LOCAL AGENCIES SHALL ENTER INTO ANY NECESSARY INTERAGENCY OPERATING AGREEMENTS AT THE LOCAL LEVEL.

(3) THE EXECUTIVE DIRECTOR SHALL PROMULGATE RULES AS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION PURSUANT TO SECTION 27-10.5-103 TO ENSURE THAT ALL IDEA TIMELINES AND REQUIREMENTS ARE MET, INCLUDING BUT NOT LIMITED TO ADMINISTRATIVE REMEDIES IF SUCH TIMELINES AND REQUIREMENTS ARE NOT MET.

(4) TO FACILITATE IMPLEMENTATION OF PART C CHILD FIND AND THE USE OF MEDICAID FUNDS, THE DEPARTMENT AND COMMUNITY CENTERED BOARDS MAY, WHERE APPROPRIATE, SHARE INFORMATION WITH THE DEPARTMENT OF EDUCATION, THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING, OR ADMINISTRATIVE UNITS THAT ARE OFFERING CHILD FIND SERVICES PURSUANT TO SECTION 22-20-118, C.R.S., PROVIDED THAT EACH DEPARTMENT OR LOCAL AGENCY ACTS IN

COMPLIANCE WITH THE FEDERAL "HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996", 42 U.S.C. SEC 132, AS AMENDED, AND THE FEDERAL "FAMILY EDUCATION RIGHTS AND PRIVACY ACT OF 1974", 20 U.S.C. SEC. 1232g AND ALL FEDERAL REGULATIONS AND APPLICABLE GUIDELINES ADOPTED THERETO.

SECTION 11. 22-20-114 (1) (c) (I), Colorado Revised Statutes, is amended, and the said 22-20-114 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-20-114. Funding of programs. (1) Subject to the provisions of subsection (3) of this section, for the 2005-06 budget year and each budget year thereafter, the total amount appropriated to the department for the payment of costs incurred by administrative units for the provision of special education programs shall be distributed to each administrative unit that provides educational services for children with disabilities as follows:

(a.5) (I) FOR THE 2007-08 BUDGET YEAR, TWO MILLION TWO HUNDRED THOUSAND DOLLARS TO OFFSET THE COSTS INCURRED BY ADMINISTRATIVE UNITS IN CONDUCTING CHILD FIND ACTIVITIES PURSUANT TO SECTION 22-20-118 FOR CHILDREN WHO ARE LESS THAN THREE YEARS OF AGE BUT NOT FOR CHILDREN WHO ARE LESS THAN THREE YEARS OF AGE WHO ARE BEING REEVALUATED FOR SERVICES UNDER PART B OF IDEA. THE DEPARTMENT SHALL ALLOCATE SAID MONEYS AMONG ADMINISTRATIVE UNITS BASED ON THE NUMBER OF CHILDREN LESS THAN THREE YEARS OF AGE WHO WERE EVALUATED IN EACH ADMINISTRATIVE UNIT DURING THE 2005-06 BUDGET YEAR AND WHO ARE OR MAY BE ELIGIBLE FOR EARLY INTERVENTION SERVICES UNDER PART C OF IDEA.

(II) (A) FOR THE 2008-09 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, A PORTION CALCULATED PURSUANT TO SUB-SUBPARAGRAPH (B) OR (C) OF THIS SUBPARAGRAPH (II) OF THE TOTAL AMOUNT OF STATE FUNDS APPROPRIATED FOR THE PAYMENT OF COSTS INCURRED BY ADMINISTRATIVE UNITS FOR THE PROVISION OF SPECIAL EDUCATION PROGRAMS, TO OFFSET THE COSTS INCURRED BY ADMINISTRATIVE UNITS IN CONDUCTING CHILD FIND ACTIVITIES UNDER PART C OF IDEA PURSUANT TO SECTION 22-20-118 FOR CHILDREN WHO ARE LESS THAN THREE YEARS OF AGE. FOR THE 2008-09 BUDGET YEAR, THE DEPARTMENT SHALL ALLOCATE SAID MONEYS AMONG ADMINISTRATIVE UNITS BASED ON THE NUMBER OF CHILDREN LESS THAN THREE YEARS OF AGE WHO WERE EVALUATED IN EACH ADMINISTRATIVE UNIT DURING THE 2005-06 BUDGET YEAR AND WHO ARE OR MAY BE ELIGIBLE FOR EARLY INTERVENTION SERVICES UNDER PART C OF IDEA. FOR THE 2009-10 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE DEPARTMENT SHALL ALLOCATE SAID MONEYS AMONG ADMINISTRATIVE UNITS BASED ON THE NUMBER OF CHILDREN LESS THAN THREE YEARS OF AGE WHO WERE EVALUATED IN EACH ADMINISTRATIVE UNIT DURING THE PRECEDING BUDGET YEAR AND WHO ARE OR MAY BE ELIGIBLE FOR EARLY INTERVENTION SERVICES UNDER PART C OF IDEA.

(B) FOR THE 2008-09 BUDGET YEAR, THE PORTION OF THE APPROPRIATION ALLOCATED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE CALCULATED AS FOLLOWS:

(THE DOLLAR AMOUNT ALLOCATED PER CHILD LESS THAN THREE YEARS OF AGE WHO WAS EVALUATED IN THE 2005-06 BUDGET YEAR) X (THE LESSER OF THE RATE OF INFLATION, AS DEFINED IN SECTION 22-55-102 (7), OR THE PERCENTAGE CHANGE IN THE TOTAL STATE FUNDS APPROPRIATED FOR THE PROVISION OF SPECIAL EDUCATION SERVICES OVER THE PRECEDING BUDGET YEAR) X (THE TOTAL NUMBER OF CHILDREN LESS THAN THREE YEARS OF AGE WHO WERE EVALUATED UNDER PART C OF IDEA BY ADMINISTRATIVE UNITS IN THE 2005-06 BUDGET YEAR).

(C) FOR THE 2009-10 BUDGET YEAR AND FOR EACH BUDGET YEAR THEREAFTER, THE PORTION OF THE APPROPRIATION ALLOCATED PURSUANT TO SUB-SUBPARAGRAPH (A) OF THIS SUBPARAGRAPH (II) SHALL BE CALCULATED AS FOLLOWS:

(THE DOLLAR AMOUNT ALLOCATED PER CHILD LESS THAN THREE YEARS OF AGE WHO WAS EVALUATED UNDER PART C OF IDEA IN THE PRECEDING BUDGET YEAR) X (THE LESSER OF THE RATE OF INFLATION, AS DEFINED IN SECTION 22-55-102 (7), OR THE PERCENTAGE CHANGE IN THE TOTAL STATE FUNDS APPROPRIATED FOR THE PROVISION OF SPECIAL EDUCATION SERVICES OVER THE PRECEDING BUDGET YEAR) X (THE TOTAL NUMBER OF CHILDREN LESS THAN THREE YEARS OF AGE WHO WERE EVALUATED UNDER PART C OF IDEA BY ADMINISTRATIVE UNITS IN THE PRECEDING BUDGET YEAR).

(c) (I) If any amount of the total annual appropriation remains after the distributions specified in ~~paragraphs (a) and (b)~~ PARAGRAPHS (a), (a.5), AND (b) of this subsection (1) have been made, and after the distribution of the portion of the total annual appropriation designated for high cost grants pursuant to subsection (2) of this section has been made, six thousand dollars per child with one or more disabilities, as described in subparagraph (II) of this paragraph (c), for a percentage of such children receiving special education services from the administrative unit. The department shall annually determine the percentage of such children for which an administrative unit may receive additional funding pursuant to this paragraph (c) based on the amount of the remaining appropriation and the per-pupil amount of six thousand dollars.

SECTION 12. 22-7-402 (8.5), Colorado Revised Statutes, is amended to read:

22-7-402. Definitions. As used in this part 4, unless the context otherwise requires:

(8.5) "Exceptional students" means those students defined in section 22-20-103 ~~(1.5)~~ (5) as children with disabilities and students defined in section 22-20-103 ~~(3.7)~~ (13) as gifted children.

SECTION 13. 22-7-504 (5) (b), Colorado Revised Statutes, is amended to read:

22-7-504. Pupil assessments - individual literacy plans. (5) (b) Paragraph (a) of this subsection (5) does not apply to children with disabilities, as defined in section 22-20-103 ~~(1.5)~~ (5), when the disability is a substantial cause for a pupil's inability to read and comprehend at grade level.

SECTION 14. 22-33-106 (1) (c), Colorado Revised Statutes, 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:

(c) Behavior on or off school property ~~which~~ THAT is detrimental to the welfare or safety of other pupils or of school personnel, including behavior ~~which~~ THAT creates a threat of physical harm to the child or to other children; except that, if the child who creates ~~such~~ THE threat is a child with a disability pursuant to section 22-20-103 ~~(1.5), such~~ (5), THE child may not be expelled if the actions creating ~~such~~ THE threat are a manifestation of ~~such~~ THE child's disability. However, ~~such~~ THE child shall be removed from the classroom to an appropriate alternative setting within the district in which ~~such~~ THE child is enrolled for a length of time ~~which~~ THAT is consistent with federal law, during which time the school in which ~~such~~ THE student is enrolled shall give priority to and arrange within ten days for a reexamination of ~~such~~ THE child's individual education plan to amend ~~such~~ HIS OR HER plan as necessary to ensure that the needs of ~~such~~ THE child are addressed in a more appropriate manner or setting ~~which~~ THAT is less disruptive to other students and is in accordance with the provisions of article 20 of this title. Nothing in this paragraph (c) shall be construed to limit a school district's authority to suspend a child with a disability for a length of time ~~which~~ THAT is consistent with federal law.

SECTION 15. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the general fund not otherwise appropriated, to the department of education, assistance to public schools, categorical programs, for distribution to administrative units pursuant to section 22-20-114 (1) (a.5), Colorado Revised Statutes, for the fiscal year beginning July 1, 2007, the sum of two million two hundred thousand dollars (\$2,200,000), or so much thereof as may be necessary, for the implementation of this act.

SECTION 16. 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: May 31, 2007