

CHAPTER 306

EDUCATION - PUBLIC SCHOOLS

HOUSE BILL 11-1277

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AN ACT

CONCERNING STATUTORY CHANGES INVOLVING K-12 EDUCATION, AND MAKING AN APPROPRIATION IN CONNECTION THEREWITH.

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

SECTION 1. Article 32 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-32-143. Local fiscal impact summaries. (1) IF A BILL IS INTRODUCED BEFORE THE GENERAL ASSEMBLY THAT IMPOSES UPON A SCHOOL DISTRICT, SCHOOL DISTRICT BOARD OF EDUCATION, OR BOARD OF COOPERATIVE SERVICES ANY NEW MANDATE OR INCREASE IN THE LEVEL OF SERVICE FOR AN EXISTING MANDATE BEYOND THE EXISTING LEVEL OF SERVICE REQUIRED BY LAW, OTHER THAN FOR THE REPURPOSING OF EXISTING TIME OR RESOURCES, EACH SCHOOL DISTRICT, SCHOOL DISTRICT BOARD OF EDUCATION, OR BOARD OF COOPERATIVE SERVICES THAT IS AFFECTED BY THE NEW MANDATE OR INCREASE SHALL HAVE SEVEN DAYS AFTER THE DATE OF THE BILL'S INTRODUCTION TO PREPARE AND SUBMIT TO THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY, OR HIS OR HER DESIGNEE, A BRIEF SUMMARY OF THE FISCAL IMPACT OF THE NEW MANDATE OR INCREASE UPON THE BUDGET OF THE SCHOOL DISTRICT OR SCHOOL DISTRICT BOARD OF EDUCATION.

(2) IF THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY, OR HIS OR HER DESIGNEE, PREPARES AN ANALYSIS OF THE FISCAL IMPACT OF AN INTRODUCED BILL THAT IMPOSES UPON A SCHOOL DISTRICT, SCHOOL DISTRICT BOARD OF EDUCATION, OR BOARD OF COOPERATIVE SERVICES A NEW MANDATE OR INCREASE IN THE LEVEL OF SERVICE FOR AN EXISTING STATE MANDATE BEYOND THE EXISTING LEVEL OF SERVICE REQUIRED BY LAW, OTHER THAN FOR THE REPURPOSING

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

OF EXISTING TIME OR RESOURCES, AND A SCHOOL DISTRICT, SCHOOL DISTRICT BOARD OF EDUCATION, OR BOARD OF COOPERATIVE SERVICES THAT WILL BE AFFECTED BY THE BILL SUBMITS TO THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL OF THE GENERAL ASSEMBLY, OR HIS OR HER DESIGNEE, A BRIEF SUMMARY OF THE FISCAL IMPACT OF THE NEW MANDATE OR INCREASE UPON THE BUDGET OF THE SCHOOL DISTRICT, SCHOOL DISTRICT BOARD OF EDUCATION, OR BOARD OF COOPERATIVE SERVICES, THEN THE DIRECTOR OF RESEARCH OF THE LEGISLATIVE COUNCIL, OR HIS OR HER DESIGNEE, SHALL INCLUDE THE BRIEF SUMMARY WITH HIS OR HER ANALYSIS.

SECTION 2. 22-7-604.5 (1) (a) (VI) (B), the introductory portion to 22-7-604.5 (1.5), and 22-7-604.5 (1.5) (l), (1.5) (m), and (2) (a), Colorado Revised Statutes, are amended, and the said 22-7-604.5 (1.5) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

22-7-604.5. Alternative education campuses - criteria - application - rule-making. (1) A public school may apply to the state board for designation as an alternative education campus. The state board shall adopt rules specifying the criteria and application process for a public school to be designated an alternative education campus. The rules shall include but need not be limited to:

(a) Criteria that a public school must meet to be designated an alternative education campus, including but not limited to the following:

(VI) (B) Serving a student population in which more than ninety-five percent of the students have ~~either~~ an individualized education program pursuant to section 22-20-108 or meet the definition of a high-risk student contained in subsection (1.5) of this section, OR ANY COMBINATION OF THESE TWO CRITERIA THAT EQUALS AT LEAST NINETY-FIVE PERCENT OF THE STUDENT POPULATION; or

(1.5) As used in this section, unless the context otherwise requires, a "high-risk student" means a student enrolled in a ~~secondary~~ public school who:

(l) Is a homeless child, as defined in section 22-1-102.5 (2) (a); ~~or~~

(m) Has a documented history of a serious psychiatric or behavioral disorder, including but not limited to an eating disorder, suicidal behaviors, or deliberate, self-inflicted injury; OR

(n) IS OVER TRADITIONAL SCHOOL AGE FOR HIS OR HER GRADE LEVEL AND LACKS ADEQUATE CREDIT HOURS FOR HIS OR HER GRADE LEVEL.

(2) (a) ~~On or before October 1, 2002, and on or before October 1 each year thereafter, the~~ A district school board for a public school that desires to be considered an alternative education campus pursuant to this section shall file with the state board a request for designation as an alternative education campus. The request shall be in a form approved by the state board and shall contain sufficient information to establish that the public school meets the requirements of the rules adopted pursuant to paragraph (a) of subsection (1) of this section. ~~On or before November 15, 2002, and on or before November 15 each year thereafter, The~~ state board shall approve the designation of alternative education campus for any public

school for which a request is filed pursuant to this subsection (2) that is found by the state board to meet the requirements of the rules adopted pursuant to paragraph (a) of subsection (1) of this section.

SECTION 3. 22-11-203 (2) and (3), Colorado Revised Statutes, are amended to read:

22-11-203. Student longitudinal academic growth - calculation - data - research. (2) (a) For each school year, the department shall provide to each school district in the state academic growth information for each student enrolled in the district public schools, based on the statewide assessment results for the preceding school years. WITHIN TEN DAYS AFTER THE INFORMATION IS PROVIDED TO EACH SCHOOL DISTRICT, the department shall also provide the ACADEMIC growth information to each district public school for the students enrolled in the district public school. UPON RECEIPT OF THE ACADEMIC GROWTH INFORMATION, THE PRINCIPAL OF EACH DISTRICT PUBLIC SCHOOL SHALL ENSURE THAT APPROPRIATE EDUCATORS IN THE SCHOOL WHO WORK DIRECTLY WITH A STUDENT HAVE ACCESS TO THE NECESSARY ACADEMIC GROWTH INFORMATION CONCERNING THAT STUDENT.

(b) For each school year, the department shall provide to the institute academic growth information for each student enrolled in the institute charter schools, based on the statewide assessment results for the preceding school years. WITHIN TEN DAYS AFTER THE INFORMATION IS PROVIDED TO THE INSTITUTE, the department shall also provide the ACADEMIC growth information to each institute charter school for the students enrolled in the institute charter school. UPON RECEIPT OF THE ACADEMIC GROWTH INFORMATION, THE PRINCIPAL OF EACH INSTITUTE CHARTER SCHOOL SHALL ENSURE THAT APPROPRIATE EDUCATORS IN THE SCHOOL WHO WORK DIRECTLY WITH A STUDENT HAVE ACCESS TO THE NECESSARY ACADEMIC GROWTH INFORMATION CONCERNING THAT STUDENT.

(3) The academic growth information required by subsection (2) of this section shall include, but need not be limited to:

(a) Information on whether each student made at least one year's academic growth in one year's time in the preceding school year;

(b) Whether the student made adequate academic growth for the preceding school year as calculated for the student pursuant to subsection (1) of this section;

(c) The longitudinal academic growth calculated for each student to attain catch-up, keep-up, or move-up growth, as described in subsection (1) of this section; ~~and~~

(d) The amount of growth for each student that would result in the student scoring at the partially proficient, proficient, and advanced achievement levels within one, two, and three years; AND

(e) SCHOOL PERFORMANCE INDICATORS AS CALCULATED PURSUANT TO SECTION 22-11-204.

SECTION 4. 22-11-306 (1) (c), Colorado Revised Statutes, is amended to read:

22-11-306. Accredited with turnaround plan - school district or institute - plan content - adoption. (1) (c) Within the time frames specified in state board rule, the local school board shall submit the adopted district turnaround plan to the commissioner for review by the state review panel. The state review panel shall critically evaluate the adopted district turnaround plan and make recommendations to the commissioner and the state board concerning the issues specified in section 22-11-208 (3). The commissioner ~~shall~~ MAY approve the adopted district turnaround plan or suggest modifications to the plan, taking into consideration any recommendations of the state review panel. The local school board shall revise the adopted district turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified by state board rule.

SECTION 5. 22-11-406 (1) (a), (1) (c), (2) (a), and (2) (c), Colorado Revised Statutes, are amended to read:

22-11-406. School turnaround plan - contents. (1) (a) If the state board, pursuant to section 22-11-210, directs a district public school to adopt a turnaround plan, the local school board, in accordance with time frames specified in state board rules, shall adopt a school turnaround plan, as described in subsection (3) of this section, for the district public school. Each district public school turnaround plan shall also be subject to evaluation by the state review panel and ~~approval~~ MAY BE SUBJECT TO REVISIONS REQUESTED by the commissioner as provided in this subsection (1).

(c) Within the time frames specified in state board rule, the local school board shall submit the adopted school turnaround plan to the commissioner for evaluation by the state review panel. The state review panel shall critically evaluate the adopted school turnaround plan and make recommendations to the commissioner and the state board concerning the issues specified in section 22-11-210 (4). The commissioner ~~shall approve the school turnaround plan or~~ MAY suggest modifications to the plan, taking into consideration any recommendations of the state review panel AND MAY REQUIRE THAT THOSE PLAN MODIFICATIONS BE MADE PRIOR TO THE DATE WHEN THE STATE BOARD ENTERS INTO AN ACCREDITATION CONTRACT WITH THE DISTRICT PURSUANT TO SECTION 22-11-206. The local school board shall revise the school turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified in state board rule. The local school board shall ensure that the final, approved school turnaround plan is in effect for the district public school within the time frames specified in state board rule.

(2) (a) If the state board, pursuant to section 22-11-210, directs an institute charter school to adopt a turnaround plan, the institute, in accordance with time frames specified in state board rules, shall adopt a school turnaround plan, as described in subsection (3) of this section, for the institute charter school. Each institute charter school turnaround plan shall also be subject to evaluation by the state review panel and ~~approval~~ MAY BE SUBJECT TO REVISIONS REQUESTED by the commissioner as provided in this subsection (2).

(c) Within the time frames specified in state board rule, the institute shall submit the adopted school turnaround plan to the commissioner for evaluation by the state review panel. The state review panel shall critically evaluate the adopted school turnaround plan and make recommendations to the commissioner and the state

board concerning the issues specified in section 22-11-210 (4). The commissioner ~~shall approve the school turnaround plan or~~ MAY suggest modifications to the plan, taking into consideration any recommendations of the state review panel AND MAY REQUIRE THAT THOSE PLAN MODIFICATIONS BE MADE PRIOR TO THE DATE WHEN THE STATE BOARD ENTERS INTO AN ACCREDITATION CONTRACT WITH THE INSTITUTE PURSUANT TO SECTION 22-11-206. The institute shall revise the school turnaround plan, if necessary, and resubmit the plan for approval within the time frames specified in state board rule. The institute shall ensure that the final, approved school turnaround plan is in effect for the institute charter school within the time frames specified in state board rule.

SECTION 6. 22-11-208 (1) (d), Colorado Revised Statutes, is amended to read:

22-11-208. Accreditation - annual review - supports and interventions - rules. (1) (d) The state board by rule shall establish the time frames in which the department shall review school district and institute performance and determine and report each school district's and the institute's appropriate accreditation category, and the time frames in which the school districts and the institute shall adopt their respective plans and submit them for review and publication on the data portal. A SCHOOL DISTRICT WITH ONE THOUSAND STUDENTS OR FEWER SHALL ONLY BE REQUIRED TO SUBMIT A SINGLE PLAN TO SATISFY THE SCHOOL DISTRICT AND SCHOOL PLAN REQUIREMENTS.

SECTION 7. 22-11-210 (2), Colorado Revised Statutes, is amended to read:

22-11-210. Public schools - annual review - plans - supports and interventions - rules. (2) (a) The department shall annually review each public school's performance and, based on the rules of the state board, recommend to the state board that the public school shall implement a performance, improvement, priority improvement, or turnaround plan for the coming school year. Based on the department's recommendation, the state board shall notify the local school board for the public school, or the institute if the public school is an institute charter school, regarding the type of plan the public school shall implement. The local school board or the institute shall place the public school in the district or institute accreditation category that correlates to the public school's plan, based on the school district's or institute's school accreditation process.

(b) NOTWITHSTANDING ANY PROVISION OF THIS ARTICLE TO THE CONTRARY, A SCHOOL DISTRICT WITH ONE THOUSAND STUDENTS OR FEWER MAY SUBMIT A SINGLE PLAN TO SATISFY THE SCHOOL DISTRICT AND SCHOOL PLAN REQUIREMENTS, SO LONG AS THE PLAN MEETS ALL STATE AND FEDERAL REQUIREMENTS FOR SCHOOL AND DISTRICT PLANS. A SCHOOL DISTRICT WITH MORE THAN ONE THOUSAND BUT FEWER THAN ONE THOUSAND TWO HUNDRED STUDENTS MAY, UPON REQUEST AND AT THE DEPARTMENT'S DISCRETION, SUBMIT A SINGLE PLAN TO SATISFY THE SCHOOL DISTRICT AND SCHOOL PLAN REQUIREMENTS, SO LONG AS THE PLAN MEETS ALL STATE AND FEDERAL REQUIREMENTS FOR SCHOOL AND DISTRICT PLANS.

SECTION 8. Repeal. 22-11-503 (3) (d) (III), Colorado Revised Statutes, is repealed as follows:

22-11-503. Performance reports - contents - rules. (3) In addition to any

information specified by rule of the state board, each school performance report shall include the following information concerning the operations and environment of the public school that is the subject of the report:

(d) As calculated pursuant to state board rule, information concerning:

~~(III) Student enrollment stability at the public school, meaning the percentage of students enrolled in the public school on October 1 of the applicable school year who were still enrolled in the public school on February 1 of the same school year;~~

SECTION 9. 22-11-603 (1), Colorado Revised Statutes, is amended to read:

22-11-603. Governor's distinguished improvement awards - rules. (1) The state board shall annually present financial awards to the public schools in the state demonstrating the highest rates of student longitudinal growth, INCLUDING LONGITUDINAL GROWTH ACROSS MULTIPLE YEARS, as measured by the Colorado growth model. The technical advisory panel convened pursuant to section 22-11-202 shall recommend to the state board, and the state board shall establish by rule, the method by which to identify schools that demonstrate the highest rate of student longitudinal growth in ~~a ONE OR MORE school year~~ YEARS, as measured by the Colorado growth model. The technical advisory panel shall take school size into account in preparing its recommendations.

SECTION 10. 22-20-102 (1), (3), and (4), Colorado Revised Statutes, are 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 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 WITH DISABILITIES. The final determination for the placement in a special education program of any eligible ~~exceptional~~ child WITH A DISABILITY shall be made by 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.

(3) It is further the intent of this article to ensure that there is a coordination of all services available to children with disabilities and to promote interagency operating agreements or contracts between administrative units, other public agencies, nonprofit organizations, and ~~eligible facilities~~ APPROVED FACILITY SCHOOLS 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, 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 IT PERTAINS to child find, in order to minimize the number of rules, regulations, and policies to which administrative units, state-operated programs, and eligible facilities APPROVED FACILITY SCHOOLS are subject.

SECTION 11. 22-20-103 (4), (5), (9), and (10), the introductory portion to 22-20-103 (12), and 22-20-103 (12) (a), (14), (18), (20) (b), (21), and (28), Colorado Revised Statutes, are amended, and the said 22-20-103 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

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

(2.5) "APPLICABLE REVENUES" MEANS THOSE REVENUES, AS DEFINED BY RULES PROMULGATED BY THE STATE BOARD PURSUANT TO THIS ARTICLE, THAT SUPPORT SPECIAL EDUCATION EXPENDITURES.

(2.7) "APPROVED FACILITY SCHOOL" MEANS AN EDUCATIONAL PROGRAM THAT IS OPERATED BY A FACILITY TO PROVIDE EDUCATIONAL SERVICES TO STUDENTS PLACED IN THE FACILITY AND THAT, PURSUANT TO SECTION 22-2-407, HAS BEEN PLACED ON THE LIST OF FACILITY SCHOOLS THAT ARE APPROVED TO RECEIVE REIMBURSEMENT FOR PROVIDING THOSE EDUCATIONAL SERVICES TO STUDENTS PLACED IN THE FACILITY. AN EDUCATIONAL PROGRAM PROVIDED BY AN ADMINISTRATIVE UNIT AT A FACILITY IS NOT AN APPROVED FACILITY SCHOOL BUT IS AN EDUCATIONAL PROGRAM OF THE ADMINISTRATIVE UNIT THAT DOES NOT REQUIRE APPROVAL BY THE DEPARTMENT.

(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 WITH DISABILITIES 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 WITH DISABILITIES from three to twenty-one years of age.

(5) (a) "Children with disabilities" means:

(I) Those persons from three 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.~~

- (A) AUTISM SPECTRUM DISORDERS;
- (B) A HEARING IMPAIRMENT, INCLUDING DEAFNESS;
- (C) A SERIOUS EMOTIONAL DISABILITY;
- (D) AN INTELLECTUAL DISABILITY;
- (E) MULTIPLE DISABILITIES;
- (F) AN ORTHOPEDIC IMPAIRMENT;
- (G) OTHER HEALTH IMPAIRMENT;
- (H) A SPECIFIC LEARNING DISABILITY;
- (I) A SPEECH OR LANGUAGE IMPAIRMENT;
- (J) TRAUMATIC BRAIN INJURY;
- (K) A VISUAL IMPAIRMENT, INCLUDING BLINDNESS;
- (L) DEAF-BLINDNESS; AND
- (M) A PRESCHOOLER WITH A DISABILITY.

(II) THOSE PERSONS FROM BIRTH THROUGH TWO YEARS OF AGE WHO HAVE BEEN DETERMINED TO BE AN INFANT OR A TODDLER WITH A DISABILITY.

(b) Notwithstanding the provisions of paragraph (a) OR (b) of this subsection (5), for purposes of child find activities, "children with disabilities" means persons from birth to twenty-one years of age.

(8.7) "EDUCATIONAL PLACEMENT" MEANS THE PROVISION OF SPECIAL EDUCATION SERVICES, INCLUDING BUT NOT LIMITED TO THOSE POINTS ALONG THE CONTINUUM OF ALTERNATIVE PLACEMENTS. "EDUCATIONAL PLACEMENT" DOES NOT MEAN A SPECIFIC PLACE, SUCH AS A SPECIFIC CLASSROOM OR SCHOOL.

(9) ~~"Eligible facility" means an approved facility school, as defined in section 22-2-402 (1).~~

(9.5) "EMERGENCY PUBLIC PLACEMENT" MEANS A PUBLIC PLACEMENT MADE NECESSARY BECAUSE OF AN IMMINENT DANGER TO A CHILD OR OTHERS.

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

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

(a) ~~Those children~~ A CHILD defined in subsection (5) of this section as ~~children~~

A CHILD with ~~disabilities~~ A DISABILITY. An administrative unit shall serve every child with a disability from three to twenty-one years of age, AND MAY SERVE children with disabilities from birth through two years of age. ~~and persons enrolled in special educational programs or receiving special educational services deemed to be "exceptional children" for all purposes of this article.~~

(12.3) "FACILITY" MEANS A DAY TREATMENT CENTER, RESIDENTIAL CHILD CARE FACILITY, OR OTHER FACILITY LICENSED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 26-6-104, C.R.S., OR A HOSPITAL LICENSED BY THE DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT PURSUANT TO SECTION 25-1.5-103, C.R.S.

(12.7) "FOSTER HOME" SHALL HAVE THE SAME MEANING AS A "FOSTER CARE HOME" AS DEFINED IN SECTION 26-6-102 (4.5), C.R.S., AND SHALL BE LICENSED BY THE DEPARTMENT OF HUMAN SERVICES OR CERTIFIED BY A COUNTY DEPARTMENT OF SOCIAL SERVICES OR CERTIFIED BY A CHILD PLACEMENT AGENCY AS DEFINED IN SECTION 26-6-102 (2), C.R.S.

(13.3) "GROUP HOME" MEANS A CONGREGATE CARE FACILITY LICENSED BY THE DEPARTMENT OF HUMAN SERVICES PURSUANT TO SECTION 26-6-104, C.R.S.

(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 ALSO 34 CFR part 303 as ~~they pertain~~ IT PERTAINS to child find.

(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~~ THAT:

(a) TO THE MAXIMUM EXTENT APPROPRIATE, CHILDREN WITH DISABILITIES, INCLUDING CHILDREN IN PUBLIC OR PRIVATE INSTITUTIONS OR OTHER CARE FACILITIES, ARE EDUCATED WITH CHILDREN WHO DO NOT HAVE DISABILITIES; AND

(b) SPECIAL CLASSES, SEPARATE SCHOOLING, OR OTHER REMOVAL OF CHILDREN WITH DISABILITIES FROM THE GENERAL EDUCATIONAL ENVIRONMENT OCCURS ONLY IF THE NATURE AND SEVERITY OF THE DISABILITY IS SUCH THAT EDUCATION IN GENERAL CLASSES WITH THE USE OF SUPPLEMENTARY AIDS AND SERVICES CANNOT BE SATISFACTORILY ACHIEVED.

(19.7) (a) "PARENT" MEANS:

(I) A BIOLOGICAL OR ADOPTIVE PARENT OF A CHILD;

(II) A FOSTER PARENT;

(III) A GUARDIAN GENERALLY AUTHORIZED TO ACT AS A CHILD'S PARENT, OR AUTHORIZED TO MAKE EDUCATIONAL DECISIONS FOR THE CHILD, BUT NOT THE STATE IF THE CHILD IS A WARD OF THE STATE;

(IV) AN INDIVIDUAL ACTING IN THE PLACE OF A BIOLOGICAL OR ADOPTIVE PARENT, INCLUDING BUT NOT LIMITED TO A GRANDPARENT, STEPPARENT, OR OTHER RELATIVE, AND WITH WHOM THE CHILD LIVES, OR AN INDIVIDUAL WHO IS LEGALLY RESPONSIBLE FOR THE CHILD'S WELFARE; OR

(V) AN EDUCATIONAL SURROGATE PARENT ASSIGNED BY THE RESPONSIBLE ADMINISTRATIVE UNIT CONSISTENT WITH RULES PROMULGATED BY THE STATE BOARD IN ACCORDANCE WITH THIS ARTICLE.

(b) (I) EXCEPT AS PROVIDED IN SUBPARAGRAPH (II) OF THIS PARAGRAPH (b), THE BIOLOGICAL OR ADOPTIVE PARENT, WHEN ATTEMPTING TO ACT AS A PARENT PURSUANT TO THIS ARTICLE, AND WHEN MORE THAN ONE PARTY IS QUALIFIED PURSUANT TO PARAGRAPH (a) OF THIS SUBSECTION (19.7) TO ACT AS A PARENT, SHALL BE PRESUMED TO BE THE PARENT FOR PURPOSES OF THIS SUBSECTION (19.7) UNLESS THE BIOLOGICAL OR ADOPTIVE PARENT DOES NOT HAVE LEGAL AUTHORITY TO MAKE EDUCATIONAL DECISIONS FOR THE CHILD.

(II) IF A JUDICIAL DECREE OR ORDER IDENTIFIES A SPECIFIC PERSON OR PERSONS LISTED IN SUBPARAGRAPHS (I) TO (IV) OF PARAGRAPH (a) OF THIS SUBSECTION (19.7) TO ACT AS THE PARENT OF A CHILD OR TO MAKE EDUCATIONAL DECISIONS ON BEHALF OF A CHILD, THEN THE PERSON OR PERSONS SHALL BE DETERMINED TO BE THE PARENT FOR PURPOSES OF THIS ARTICLE.

(20) "Public agency" means a public agency that:

(b) Is legally authorized to place a child in ~~an eligible~~ A facility or another out-of-home placement, INCLUDING BUT NOT LIMITED TO A GROUP HOME OR A FOSTER HOME.

(21) "Public placement" means the placement of a child with a disability in ~~an eligible~~ A facility or another out-of-home placement, INCLUDING BUT NOT LIMITED TO A GROUP HOME OR FOSTER HOME, by a court or public agency.

(22.7) "SPECIAL EDUCATION EXPENDITURES" MEANS THOSE EXPENDITURES THAT ARE INCURRED BY AN ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, OR APPROVED FACILITY SCHOOL FOR PROFESSIONAL SERVICES ASSOCIATED WITH SPECIAL EDUCATION REFERRALS AND EVALUATIONS OF CHILDREN WHO MAY HAVE A DISABILITY AND THE PROVISION OF SPECIAL EDUCATION SERVICES AS IDENTIFIED ON AN INDIVIDUAL STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM. SPECIAL EDUCATION EXPENDITURES DO NOT INCLUDE THE COSTS OF THE GENERAL EDUCATION PROGRAM. SPECIAL EDUCATION EXPENDITURES SHALL BE SUPPLEMENTAL TO THE GENERAL EDUCATION PROGRAM AND SHALL BE ABOVE WHAT IS PROVIDED BY THE ADMINISTRATIVE UNIT, STATE-OPERATED PROGRAM, OR APPROVED FACILITY SCHOOL FOR GENERAL EDUCATION STUDENTS AND STAFF AND MAY INCLUDE:

- (a) SPECIAL EDUCATION TEACHERS;
- (b) HOME-HOSPITAL TEACHERS FOR STUDENTS WITH DISABILITIES;
- (c) SPEECH-LANGUAGE PATHOLOGISTS AND SPEECH-LANGUAGE PATHOLOGY ASSISTANTS;
- (d) SPECIALTY TEACHERS;
- (e) SPECIAL EDUCATION INSTRUCTIONAL PARAPROFESSIONALS;
- (f) EDUCATIONAL INTERPRETERS;
- (g) SCHOOL NURSES;
- (h) OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS;
- (i) PHYSICAL THERAPISTS AND PHYSICAL THERAPY ASSISTANTS;
- (j) SCHOOL PSYCHOLOGISTS;
- (k) SCHOOL SOCIAL WORKERS;
- (l) AUDIOLOGISTS;
- (m) ORIENTATION AND MOBILITY SPECIALISTS;
- (n) OTHER SPECIAL EDUCATION PROFESSIONALS;
- (o) SPECIAL EDUCATION ADMINISTRATORS AND OFFICE SUPPORT;
- (p) OTHER NONCERTIFIED OR NONLICENSED SUPPORT;
- (q) EMPLOYEE BENEFITS FOR SPECIAL EDUCATION STAFF;
- (r) SUPPLIES, MATERIALS, AND EQUIPMENT USED FOR INDIVIDUAL STUDENTS' SPECIAL EDUCATION PROGRAMS AND SERVICES;
- (s) PURCHASED SERVICE CONTRACTS FOR PERSONAL SERVICES;
- (t) TUITION TO OTHER ADMINISTRATIVE UNITS AND APPROVED TUITION RATES TO APPROVED FACILITY SCHOOLS FOR SPECIAL EDUCATION;
- (u) STAFF TRAVEL RELATED TO SPECIAL EDUCATION;
- (v) PROFESSIONAL DEVELOPMENT FOR SPECIAL EDUCATION STAFF, OR ALL STAFF, IF THE CONTENT OF THE PROFESSIONAL DEVELOPMENT IS SPECIFIC TO SERVICES FOR CHILDREN WITH DISABILITIES;
- (w) OTHER PURCHASED SERVICES RELATED TO SPECIAL EDUCATION;

(x) DUES, FEES, AND OTHER EXPENDITURES SPECIFIC TO THE SPECIAL EDUCATION PROGRAM; AND

(y) PARENT COUNSELING AND TRAINING, AS DEFINED BY THE IDEA AND ITS IMPLEMENTING REGULATIONS.

(28) "State-operated program" means an approved school program supervised by the department and operated by:

(a) The Colorado school for the deaf and THE 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 12. 22-20-104 (1), (2) (a), and (4), 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~~ APPROVED FACILITY SCHOOLS, and personnel;

(II) Criteria for determining disability and eligibility for special ~~educational~~ EDUCATION services;

(III) Procedures regarding the identification of ~~exceptional~~ children WITH DISABILITIES, 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 IDEA regarding children with disabilities who are enrolled in private schools. ~~and~~

~~(XI) Criteria for administrative units to satisfy in adopting program plans to identify and serve gifted children.~~

(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 declarations set forth in sections 22-20-102 and 22-20-102.5.

(c) An administrative unit, a state-operated program, or an ~~eligible~~ APPROVED facility SCHOOL that provides plans, programs, or services that do not comply with the rules adopted by the state board will be provided by the department 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 administrative unit, state-operated program, or ~~eligible~~ APPROVED facility SCHOOL an opportunity to comply with such rules. ~~An administrative unit may establish a claim for variance based upon conditions indigenous to or unique to the 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. 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, 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 AS DETERMINED BY THE BY-LAWS OF THE ADVISORY COMMITTEE. Any additions to the composition of the advisory committee shall be made pursuant to the procedures of the state board.

(4) To comply with this section, the department shall maintain a SPECIAL EDUCATION 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 administrative units under the provisions of section 22-20-106 AND OTHER APPLICABLE REVENUES are being spent only on special education ~~services and programs~~ EXPENDITURES.

SECTION 13. 22-20-106 (2) (a) (I), (3), (5), (6), and (7), Colorado Revised

Statutes, are amended to read:

22-20-106. Special education programs - early intervening services - rules.

(2) (a) (I) Each administrative unit, state-operated program, and ~~eligible~~ APPROVED facility SCHOOL shall submit a comprehensive plan to the department pursuant to the rules promulgated by the state board indicating how the administrative unit, state-operated program, or ~~eligible~~ APPROVED facility SCHOOL will provide for the education of all children with disabilities. Each comprehensive plan shall include the type and number of children with disabilities served, the services to be provided, and the estimated resources necessary.

(3) (a) Each administrative unit, state-operated program, and ~~eligible~~ APPROVED facility SCHOOL shall make available special education services as specified by the IEP for any child with a disability for whom it is responsible, as defined by the rules adopted by the state board pursuant to this article. ~~For the purpose of implementing the program plan adopted by each administrative unit pursuant to section 22-20-104.5, each administrative unit shall ensure that its constituent schools and school districts make available appropriate special provisions for gifted children to the extent that funds are provided for such implementation.~~ GENERAL EDUCATION SERVICES ARE THE RESPONSIBILITY OF THE SCHOOL DISTRICT IN WHICH A FOSTER HOME IS LOCATED, AND SPECIAL EDUCATION SERVICES ARE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT IN WHICH A FOSTER CARE HOME IS LOCATED. GENERAL EDUCATION SERVICES ARE THE RESPONSIBILITY OF THE SCHOOL DISTRICT IN WHICH A GROUP HOME IS LOCATED, AND SPECIAL EDUCATION SERVICES ARE THE RESPONSIBILITY OF THE ADMINISTRATIVE UNIT IN WHICH A GROUP HOME IS LOCATED. THE ADMINISTRATIVE UNIT IN WHICH THE GROUP HOME IS LOCATED MAY SEEK TUITION COSTS CONSISTENT WITH SECTION 22-20-109 (2.5).

(b) In providing ~~these~~ SPECIAL EDUCATION services, an administrative unit, state-operated program, or ~~eligible~~ APPROVED facility SCHOOL may pay for ~~salaries and employee benefits of certified special education teachers and special education staff, equipment, professional development for teachers and staff who have pupil contact, mileage expenses incurred by staff, or any other expenses related to special education.~~ SPECIAL EDUCATION EXPENDITURES AS DEFINED IN SECTION 22-20-103 (22.7).

(c) The district of residence shall pay the tuition costs for a child with a disability in an ~~eligible~~ APPROVED facility SCHOOL 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.

(5) Each administrative unit shall employ a director of special education. Each state-operated program or ~~eligible~~ APPROVED facility SCHOOL shall employ or contract in writing for a director of special education. A director of special education shall meet qualification standards promulgated by rule of the state board.

(6) Each administrative unit, state-operated program, and ~~eligible~~ APPROVED facility SCHOOL shall employ or contract in writing for a sufficient number of appropriately licensed AND ENDORSED special education teachers and staff to adequately carry out those functions 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 FOR SPECIAL EDUCATION EXPENDITURES AS DEFINED IN SECTION 22-20-103 (22.7) AND in accordance with rules as established by the state board, which are not in conflict with federal law or regulations.

SECTION 14. 22-20-107 (1), Colorado Revised Statutes, is amended to read:

22-20-107. Authority to contract with institutions of higher education or community centered boards. (1) An administrative unit may contract with an institution of higher education, or a community centered board, as provided in section 27-10.5-104, C.R.S., for the provision by the administrative unit of an education and training program for children with disabilities. If ~~such~~ AN agreement is arrived at by the two agencies, the administrative unit shall place the responsibility for administering the program with the director of special education OF THE ADMINISTRATIVE UNIT.

SECTION 15. 22-20-107.5 (1), 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, INCLUDING A CHILD PLACED IN A FOSTER HOME PURSUANT TO SECTION 19-1-115.5 (1), C.R.S.; 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) 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 institutes at Pueblo or Fort Logan, 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;~~ THE CHILD SHALL BE DEEMED TO RESIDE WHERE THE CHILD'S PARENT RESIDES IF THE CHILD IS LIVING AT ONE OF THE FOLLOWING:

(I) A REGIONAL CENTER THAT IS OPERATED BY THE DEPARTMENT OF HUMAN SERVICES;

(II) A FACILITY;

(III) A GROUP HOME;

(IV) A MENTAL HEALTH INSTITUTE OPERATED BY THE DEPARTMENT OF HUMAN SERVICES; OR

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

(c) If a child lives in ~~one of the~~ A regional ~~centers or the~~ CENTER, A mental health ~~institutes at Pueblo or Fort Logan or in an eligible~~ INSTITUTE, A facility, OR A GROUP HOME, 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~~ THE regional center, mental health institute, ~~or eligible~~ facility, OR GROUP HOME is located.

SECTION 16. 22-20-108 (1) (b), (4), (4.5) (e), (4.7) (a) (IV), and (4.7) (b), the introductory portion to 22-20-108 (5), and 22-20-108 (5.5), (7), (8), and (9), Colorado Revised Statutes, are amended to read:

22-20-108. Determination of disability - enrollment. (1) (b) The development of an IEP for a child with ~~disabilities~~ A DISABILITY and determination of EDUCATIONAL 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.

(4) Each child determined to have a disability by the multidisciplinary team pursuant to paragraph (a) of subsection (1) of this section shall be provided with an IEP developed by the child's IEP team pursuant to paragraph (b) of subsection (1) of this section and shall be reviewed annually. The IEP for each child enrolled in a school district or ~~the state charter school institute~~ AN INSTITUTE CHARTER SCHOOL shall specify whether the child shall achieve the content standards adopted by the district in which the child is enrolled or by the state charter school institute or whether the child shall achieve individualized standards which would indicate the child has met the requirements of his or her IEP. For each child attending school in an ~~eligible~~ APPROVED facility SCHOOL 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, administrative unit, state-operated program, or ~~eligible~~ APPROVED facility SCHOOL providing the SPECIAL EDUCATION services shall cooperate in the development of the IEP. The 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, nonprofit organizations, or ~~eligible facilities~~ APPROVED FACILITY SCHOOLS. Any court of record, the department of human services, or any other public agency authorized by law to place a child in an ~~eligible~~ A 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 CALENDAR 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) (e) Nothing in this subsection (4.5) shall require an administrative unit, a

state-operated program, or an ~~eligible~~ APPROVED facility SCHOOL to expend additional resources or hire additional personnel to implement the provisions of this section.

(4.7) (a) In developing an 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 IEP team shall consider the related services and program options that provide the child with an appropriate and equal opportunity for communication access. The 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 IEP. In considering the child's needs, the IEP team shall expressly consider the following:

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

(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 administrative unit, STATE-OPERATED PROGRAM, OR APPROVED FACILITY SCHOOL and available to the child at the time the child's IEP is prepared shall be explained to the parent.

(5) In formulating recommendations for ~~placement of~~ THE LEAST RESTRICTIVE ENVIRONMENT FOR a child with a disability, the IEP team shall:

(5.5) The administrative unit or state-operated program shall consider the cost to the administrative unit or state-operated program when choosing between two or more appropriate EDUCATIONAL placements.

(7) (a) 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~~ ENVIRONMENT consistent with the EDUCATIONAL placement decision of the IEP team.

(b) 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.

(c) In no event shall the public agency place a child in an administrative unit or ~~eligible~~ APPROVED facility SCHOOL that is unable to ensure the provision of special education services that are appropriate for the child. The costs of educating ~~such children~~ THE CHILD shall be the responsibility of the school district of residence, and ~~such~~ THE school district shall pay tuition costs in accordance with section 22-20-109.

(8) 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~~ THE 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~~ A facility by a court or a public agency within fifteen CALENDAR days 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~~ A 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 administrative unit of residence disapproves the placement 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 IEP or ~~would constitute a disciplinary change of placement as defined by the rules promulgated by the state board~~ WITH THE IDEA'S STUDENT DISCIPLINE PROTECTIONS FOR CHILDREN WITH DISABILITIES. Alternatively, the teacher may request a review of the child's IEP, behavior plan, or both to consider changes in services or EDUCATIONAL placement. In making any such determination for EDUCATIONAL placement or a plan of discipline for the child, 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 AS SPECIFIED BY THE IDEA AND ITS IMPLEMENTING REGULATIONS.

SECTION 17. 22-20-109, Colorado Revised Statutes, is amended to read:

22-20-109. Tuition - rules. (1) (a) An administrative unit of residence may contract with another administrative unit or ~~a community centered board or an eligible facility~~ AN APPROVED FACILITY SCHOOL 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 an eligible facility shall be established by the department and approved by the state board. Such tuition charge shall be the~~

~~maximum amount the administrative unit of residence shall be obligated to pay for the special 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 IEP but were not included in the tuition charge established pursuant to this subsection (1).~~ AN ADMINISTRATIVE UNIT MAY PURCHASE SERVICES FROM ONE OR MORE ADMINISTRATIVE UNITS WHERE AN APPROPRIATE SPECIAL EDUCATION PROGRAM EXISTS. THE TWO ADMINISTRATIVE UNITS SHALL NEGOTIATE A CONTRACT, INCLUDING BUT NOT LIMITED TO THE COST OF THE SPECIAL EDUCATION PROGRAM, THAT NEED NOT BE APPROVED BY THE DEPARTMENT.

(b) AN ADMINISTRATIVE UNIT MAY CONTRACT FOR SPECIAL EDUCATION SERVICES WITH AN APPROVED FACILITY SCHOOL PURSUANT TO RULES PROMULGATED BY THE STATE BOARD.

~~(2) (a) The state board shall promulgate rules to define the contract approval process to define the types and amounts of costs in excess of the state average per pupil 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 an eligible facility. These rules shall include, but 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 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 the 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 revenues to provide these services. WHEN A CHILD WITH A DISABILITY IS PUBLICLY PLACED IN AN APPROVED FACILITY SCHOOL, THE APPROVED FACILITY SCHOOL SHALL DOCUMENT TO THE DEPARTMENT A LIST OF COSTS OF PROVIDING THE 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 AN APPROVED FACILITY SCHOOL SHALL BE ESTABLISHED BY THE DEPARTMENT AND APPROVED BY THE STATE BOARD. THE TUITION CHARGE SHALL BE THE MAXIMUM AMOUNT THE SCHOOL DISTRICT OF RESIDENCE SHALL BE OBLIGATED TO PAY FOR THE SPECIAL 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 (2) FOR A STUDENT IN NEED OF SPECIALIZED SERVICES, WHICH SERVICES WERE INCLUDED IN THE STUDENT'S IEP BUT WERE NOT INCLUDED IN THE TUITION CHARGE ESTABLISHED PURSUANT TO THIS SUBSECTION (2).~~

(b) THE STATE BOARD SHALL PROMULGATE RULES TO DEFINE THE CONTRACT APPROVAL PROCESS AND THE METHOD FOR DETERMINING THE TUITION RATE THAT A SCHOOL DISTRICT OF RESIDENCE OF A CHILD WITH A DISABILITY SHALL PAY AS TUITION TO EDUCATE THAT CHILD AT AN APPROVED FACILITY SCHOOL. THE RULES

FOR DETERMINING A TUITION RATE SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, THE LIMITATIONS ON THE NUMBER OF STAFF MEMBERS PER NUMBER OF STUDENTS, THE NUMBER OF SCHOOL DAYS, ALL SPECIAL EDUCATION EXPENDITURES AS DEFINED IN SECTION 22-20-103 (22.7) AND SPECIFIED BY THE CHILD'S IEP, OTHER EDUCATION COSTS, AND APPLICABLE REVENUES ASSOCIATED WITH THE APPROVED FACILITY SCHOOL'S EDUCATIONAL PROGRAM. THE RULES SHALL NOT REQUIRE THAT, IN CALCULATING THE AMOUNT OF THE TUITION CHARGE FOR EDUCATING A CHILD WITH A DISABILITY IN AN APPROVED FACILITY SCHOOL, THE COSTS INCURRED BY THE APPROVED FACILITY SCHOOL IN PROVIDING THE SPECIAL EDUCATION PROGRAM BE REDUCED BY THE AMOUNT OF REVENUES, IF ANY, RECEIVED BY THE APPROVED FACILITY SCHOOL 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 REVENUES TO PROVIDE THESE SERVICES PURSUANT TO SECTION 22-54-129 (2).

(c) IN ADDITION TO ANY OTHER TUITION COSTS THAT A SCHOOL DISTRICT OF RESIDENCE IS REQUIRED TO PAY PURSUANT TO THIS SECTION, THE SCHOOL DISTRICT MAY PAY THOSE COSTS DOCUMENTED TO AND APPROVED BY THE DEPARTMENT PURSUANT TO THIS SUBSECTION (2). NOTWITHSTANDING THE PROVISIONS OF THIS SUBSECTION (2), A SCHOOL DISTRICT OF RESIDENCE SHALL NOT BE REQUIRED TO PAY COSTS INCURRED BY AN APPROVED FACILITY SCHOOL IN PROVIDING EDUCATIONAL SERVICES AT THE APPROVED FACILITY SCHOOL DURING THE MONTHS OF JUNE, JULY, OR AUGUST.

(2.5) (a) WHEN A CHILD WITH A DISABILITY IS PLACED OUT OF THE HOME IN A GROUP HOME AND ATTENDS SCHOOL IN AN ADMINISTRATIVE UNIT OTHER THAN THE CHILD'S ADMINISTRATIVE UNIT OF RESIDENCE AND THE SCHOOL DOES NOT PROVIDE THE CHILD WITH AN ON-LINE PROGRAM PURSUANT TO ARTICLE 30.7 OF THIS TITLE, THE DISTRICT OF RESIDENCE SHALL BE RESPONSIBLE FOR PAYING THE TUITION CHARGE FOR EDUCATING THE CHILD TO THE ADMINISTRATIVE UNIT OF ATTENDANCE.

(b) THE ADMINISTRATIVE UNIT OF ATTENDANCE SHALL NOT CHARGE THE DISTRICT OF RESIDENCE TUITION FOR THE EXCESS COSTS INCURRED IN EDUCATING A CHILD WITH A DISABILITY UNLESS THE CHILD MEETS THE CRITERIA FOR FUNDING PURSUANT TO SECTION 22-20-114 (1) (c) (II).

(c) THE ADMINISTRATIVE UNIT OF ATTENDANCE SHALL PROVIDE NOTICE TO THE ADMINISTRATIVE UNIT OF RESIDENCE AND TO THE DISTRICT OF RESIDENCE, IF IT IS NOT AN ADMINISTRATIVE UNIT, IN ACCORDANCE WITH THE RULES ADOPTED PURSUANT TO PARAGRAPH (b) OF SUBSECTION (2) OF THIS SECTION WHEN A CHILD WITH A DISABILITY APPLIES TO ENROLL IN A SCHOOL OF THE DISTRICT OF ATTENDANCE. THE NOTICE SHALL BE IN WRITING AND SHALL ALSO BE SENT TO THE SPECIAL EDUCATION DIRECTORS FOR THE ADMINISTRATIVE UNITS OF RESIDENCE AND OF ATTENDANCE. IF THE ADMINISTRATIVE UNIT OF ATTENDANCE DOES NOT INTEND TO SEEK TUITION COSTS, NOTIFICATION IS NOT REQUIRED. THE STATE BOARD SHALL ADOPT RULES TO SPECIFY THE CONTENT, MANNER, AND TIMING OF THE NOTICE REQUIRED PURSUANT TO THIS PARAGRAPH (c).

(d) THE AMOUNT OF THE TUITION CHARGE SHALL BE DETERMINED PURSUANT TO A CONTRACT ENTERED INTO BY THE ADMINISTRATIVE UNIT OF ATTENDANCE, THE DISTRICT OF ATTENDANCE IF IT IS NOT AN ADMINISTRATIVE UNIT, THE

ADMINISTRATIVE UNIT OF RESIDENCE, AND THE DISTRICT OF RESIDENCE IF IT IS NOT AN ADMINISTRATIVE UNIT.

~~(3) In addition to any other tuition costs that a school district of residence is required to pay pursuant to this section, the school district may pay those costs documented to and approved by the department pursuant to subsection (1) of this section. Notwithstanding the provisions of subsection (1) of this section, a school district of residence shall not be required to pay costs incurred by an approved facility school, as defined in section 22-2-402 (1), in providing educational services at the approved facility school during the months of June, July, or August.~~

~~(4) (a) When a child with a disability enrolls and attends a school in a district AN ADMINISTRATIVE UNIT other than the child's district ADMINISTRATIVE UNIT of residence pursuant to the provisions of section 22-36-101, and the school does not provide the child an on-line program pursuant to article 30.7 of this title, the district of residence shall be responsible for paying the tuition charge for educating the child to the district ADMINISTRATIVE UNIT of attendance. The district of attendance shall not charge the district of residence tuition for the excess costs incurred in educating a child with a disability unless the child meets the criteria for funding pursuant to section 22-20-114 (1) (c) (II). The district of attendance shall provide notice to the district of residence in accordance with state board rules adopted pursuant to paragraph (b) of this subsection (4) when a child with a disability applies to enroll in a school in the district of attendance. The amount of the tuition charge shall be determined pursuant to a contract entered into between the two districts pursuant to subsection (1) of this section. Under the circumstances described in this subsection (4), the provisions of section 22-20-108 (8) shall not apply.~~

~~(b) For the 2004-05 budget year and budget years thereafter, the state board shall adopt rules to specify the content, manner, and timing of the notice that a district of attendance shall give a district of residence pursuant to paragraph (a) of this subsection (4).~~

~~(c) THE ADMINISTRATIVE UNIT OF ATTENDANCE SHALL NOT CHARGE THE DISTRICT OF RESIDENCE TUITION FOR THE EXCESS COSTS INCURRED IN EDUCATING A CHILD WITH A DISABILITY UNLESS THE CHILD MEETS THE CRITERIA FOR FUNDING PURSUANT TO SECTION 22-20-114 (1) (c) (II).~~

~~(d) THE ADMINISTRATIVE UNIT OF ATTENDANCE SHALL PROVIDE NOTICE TO THE ADMINISTRATIVE UNIT OF RESIDENCE AND TO THE DISTRICT OF RESIDENCE, IF IT IS NOT AN ADMINISTRATIVE UNIT, IN ACCORDANCE WITH THE RULES ADOPTED PURSUANT TO THIS PARAGRAPH (d) WHEN A CHILD WITH A DISABILITY APPLIES TO ENROLL IN A SCHOOL OF THE DISTRICT OF ATTENDANCE. THE NOTICE SHALL BE IN WRITING AND SHALL ALSO BE SENT TO THE SPECIAL EDUCATION DIRECTORS FOR THE ADMINISTRATIVE UNITS OF RESIDENCE AND OF ATTENDANCE. IF THE ADMINISTRATIVE UNIT OF ATTENDANCE DOES NOT INTEND TO SEEK TUITION COSTS, NOTIFICATION IS NOT REQUIRED. THE STATE BOARD SHALL ADOPT RULES TO SPECIFY THE CONTENT, MANNER, AND TIMING OF THE NOTICE REQUIRED PURSUANT TO THIS PARAGRAPH (d).~~

~~(e) THE AMOUNT OF THE TUITION CHARGE SHALL BE DETERMINED PURSUANT TO~~

A CONTRACT ENTERED INTO BY THE ADMINISTRATIVE UNIT OF ATTENDANCE, THE DISTRICT OF ATTENDANCE IF IT IS NOT AN ADMINISTRATIVE UNIT, THE ADMINISTRATIVE UNIT OF RESIDENCE, AND THE DISTRICT OF RESIDENCE IF IT IS NOT AN ADMINISTRATIVE UNIT. UNDER THE CIRCUMSTANCES DESCRIBED IN THIS SUBSECTION (4), THE PROVISIONS OF SECTION 22-20-108 (8) SHALL NOT APPLY.

(5) (a) When a child with a disability enrolls in and attends a district charter school pursuant to the provisions of part 1 of article 30.5 of this title or an institute charter school pursuant to part 5 of article 30.5 of this title, including a district or institute charter school that provides an on-line program pursuant to article 30.7 of this title, the district of residence shall be responsible for paying to the district or institute charter school the tuition charge for the excess costs incurred in educating the child. ~~The district or institute charter school shall not charge the district of residence tuition for the excess costs incurred in educating a child with a disability unless the child meets the criteria for funding pursuant to section 22-20-114 (1) (c) (H). The tuition responsibility shall be reflected in a contract between the district or institute charter school and the district of residence in a form approved by the chartering district. The district or institute charter school shall provide notice to the district of residence in accordance with state board rules adopted pursuant to subsection (7) of this section when a child with a disability applies to enroll in the district or institute charter school. The amount of the tuition charge shall be determined pursuant to rules adopted by the state board pursuant to subsection (7) of this section. Under the circumstances described in this subsection (5), the provisions of section 22-20-108 (8) shall not apply.~~

(b) Nothing in this subsection (5) shall be construed to apply to the charter contract entered into between a charter school and the chartering local board of education pursuant to part 1 of article 30.5 of this title OR TO ALLOW A CHARTER SCHOOL TO SEEK TUITION COSTS FROM ITS CHARTERING AUTHORITY.

(c) THE DISTRICT OR INSTITUTE CHARTER SCHOOL SHALL NOT CHARGE THE DISTRICT OF RESIDENCE TUITION FOR THE EXCESS COSTS INCURRED IN EDUCATING A CHILD WITH A DISABILITY UNLESS THE CHILD MEETS THE CRITERIA FOR FUNDING PURSUANT TO SECTION 22-20-114 (1) (c) (II).

(d) THE DISTRICT OR INSTITUTE CHARTER SCHOOL SHALL PROVIDE NOTICE TO THE ADMINISTRATIVE UNIT OF RESIDENCE, THE DISTRICT OF RESIDENCE IF IT IS NOT AN ADMINISTRATIVE UNIT, AND THE ADMINISTRATIVE UNIT OF ATTENDANCE IN ACCORDANCE WITH STATE BOARD RULES ADOPTED PURSUANT TO SUBSECTION (7) OF THIS SECTION WHEN A CHILD WITH A DISABILITY APPLIES TO ENROLL IN THE DISTRICT OR INSTITUTE CHARTER SCHOOL. THE NOTICE SHALL BE IN WRITING AND SHALL BE SENT TO THE SPECIAL EDUCATION DIRECTORS FOR THE ADMINISTRATIVE UNITS OF RESIDENCE AND OF ATTENDANCE. IF THE DISTRICT OR INSTITUTE CHARTER SCHOOL DOES NOT INTEND TO SEEK TUITION COSTS, NO NOTIFICATION IS REQUIRED.

(e) THE AMOUNT OF THE TUITION CHARGED SHALL BE DETERMINED PURSUANT TO RULES ADOPTED BY THE STATE BOARD PURSUANT TO SUBSECTION (7) OF THIS SECTION. THE TUITION RESPONSIBILITY SHALL BE REFLECTED IN A CONTRACT BETWEEN THE CHARTER SCHOOL, THE ADMINISTRATIVE UNIT OF RESIDENCE, THE DISTRICT OF RESIDENCE IF IT IS NOT AN ADMINISTRATIVE UNIT, THE ADMINISTRATIVE UNIT OF ATTENDANCE INCLUDING THE STATE CHARTER SCHOOL INSTITUTE, AND THE

CHARTERING SCHOOL DISTRICT IF IT IS NOT AN ADMINISTRATIVE UNIT. THE CONTRACT SHALL BE IN A FORM APPROVED BY THE CHARTERING ENTITY. UNDER THE CIRCUMSTANCES DESCRIBED IN THIS SUBSECTION (5), THE PROVISIONS OF SECTION 22-20-108 (8) SHALL NOT APPLY.

~~(6) (a) When a child with a disability enrolls in and attends an on-line program pursuant to article 30.7 of this title that is not provided by a district or institute charter school, the district of residence shall be responsible for paying to the provider of the on-line program the tuition charge for the excess costs incurred in educating the child. The provider of the on-line program shall not charge the district of residence tuition for the excess costs incurred in educating a child with a disability who receives educational services from the provider of the on-line program unless the child meets the criteria for funding pursuant to section 22-20-114 (1) (c) (II). The tuition responsibility shall be reflected in a contract between the district of attendance and the district of residence in a form approved by the state board. The on-line provider shall provide notice to the district of residence in accordance with state board rules adopted pursuant to subsection (7) of this section when a child with a disability applies to enroll in the on-line program. The amount of the tuition charge shall be determined pursuant to rules adopted by the state board pursuant to subsection (7) of this section. Under the circumstances described in this subsection (6), the provisions of section 22-20-108 (8) shall not apply.~~

(b) THE PROVIDER OF THE ON-LINE PROGRAM SHALL NOT CHARGE THE DISTRICT OF RESIDENCE TUITION FOR THE EXCESS COSTS INCURRED IN EDUCATING A CHILD WITH A DISABILITY WHO RECEIVES EDUCATIONAL SERVICES FROM THE PROVIDER OF THE ON-LINE PROGRAM UNLESS THE CHILD MEETS THE CRITERIA FOR FUNDING PURSUANT TO SECTION 22-20-114 (1) (c) (II).

(c) THE ON-LINE PROVIDER SHALL PROVIDE NOTICE TO THE ADMINISTRATIVE UNIT OF ATTENDANCE, THE ADMINISTRATIVE UNIT OF RESIDENCE, AND THE DISTRICT OF RESIDENCE IF IT IS NOT AN ADMINISTRATIVE UNIT, IN ACCORDANCE WITH STATE BOARD RULES ADOPTED PURSUANT TO SUBSECTION (7) OF THIS SECTION WHEN A CHILD WITH A DISABILITY APPLIES TO ENROLL IN THE ON-LINE PROGRAM. THE NOTICE SHALL BE IN WRITING AND SHALL ALSO BE SENT TO THE SPECIAL EDUCATION DIRECTORS FOR THE ADMINISTRATIVE UNITS OF RESIDENCE AND OF ATTENDANCE. IF THE ON-LINE PROVIDER DOES NOT INTEND TO SEEK TUITION COSTS, NOTIFICATION IS NOT REQUIRED.

(d) THE AMOUNT OF THE TUITION CHARGE SHALL BE DETERMINED PURSUANT TO RULES ADOPTED BY THE STATE BOARD PURSUANT TO SUBSECTION (7) OF THIS SECTION. THE TUITION RESPONSIBILITY SHALL BE REFLECTED IN A CONTRACT ENTERED INTO BY THE ADMINISTRATIVE UNIT OF RESIDENCE, THE DISTRICT OF RESIDENCE IF IT IS NOT AN ADMINISTRATIVE UNIT, THE ADMINISTRATIVE UNIT OF ATTENDANCE, AND THE DISTRICT OF ATTENDANCE IF IT IS NOT AN ADMINISTRATIVE UNIT. UNDER THE CIRCUMSTANCES DESCRIBED IN THIS SUBSECTION (6), THE PROVISIONS OF SECTION 22-20-108 (8) SHALL NOT APPLY.

(7) For the 2004-05 budget year and budget years thereafter, the state board shall 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:

(a) Specify the content, manner, and timing of the notice that a charter school or on-line provider shall ~~give a district of residence~~ PROVIDE pursuant to subsections (5) and (6) of this section, respectively;

(b) Define the types and amounts of allowable costs in excess of the per pupil funding for the child with a disability, as determined pursuant to article 54 of this title, and any other state and federal revenues received for educating the child, that a charter school or on-line program may charge as tuition to a district of residence;

(c) Define other applicable revenues that a district of residence of a child with a disability shall apply in paying the tuition charge for excess costs incurred in educating the child at a charter school or through an on-line program;

(d) Specify the limitations on the number of staff members per number of students that a charter school or on-line program shall provide in educating children with disabilities;

(e) ~~Specify the amount and types of equipment necessary for instruction of children with disabilities;~~

(f) and (g) (Deleted by amendment, L. 2006, p. 332, § 9, effective August 7, 2006.)

(h) Identify any other expenses involved in the provision of educational services to children with disabilities in accordance with each child's individualized education program;

(i) Establish a dispute resolution process for disagreements resulting from contracts entered into pursuant to subsection (5) or (6) of this section; and

(j) Specify elements to be included in a contract between ~~a charter school and a district of residence~~ as ENTITIES described in ~~paragraph (a)~~ of subsection (5) of this section.

(8) Repealed.

SECTION 18. 22-20-112, Colorado Revised Statutes, is amended to read:

22-20-112. Length of school year. (1) An administrative unit may conduct special ~~educational~~ EDUCATION 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.

(2) Each administrative unit, state-operated program, and ~~eligible~~ APPROVED facility SCHOOL 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 19. 22-20-114 (1) (a) and (1) (c) (II), Colorado Revised Statutes, are amended 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) (I) Five hundred thousand dollars to ~~each~~ administrative ~~unit~~ UNITS that ~~enrolls~~ ENROLL children with disabilities:

(A) For whom tuition is paid by the administrative units for the children to receive educational services at ~~eligible facilities~~ APPROVED FACILITY SCHOOLS; and

(B) For whom parental rights have been relinquished by the parents or terminated by a court, the parents of whom are incarcerated, the parents of whom cannot be located, the parents of whom reside out of the state but the department of human services has placed the children within the administrative unit, or CHILDREN WITH DISABILITIES who are legally emancipated.

(II) The moneys appropriated pursuant to subparagraph (I) of this paragraph (a) shall be distributed in each budget year to administrative units based upon each administrative unit's share of the aggregate number of children with disabilities who are specified in subparagraph (I) of this paragraph (a); except that an administrative unit shall not receive an amount that exceeds the aggregate amount of tuition paid by that administrative unit for the specified children with disabilities to receive educational services at ~~eligible facilities~~ APPROVED FACILITY SCHOOLS during the immediately preceding budget year. For purposes of this paragraph (a), the number of children with disabilities that are specified in subparagraph (I) of this paragraph (a) shall be based upon the count taken in December of the immediately preceding budget year.

(c) (II) An administrative unit that provides special education services to children who have one or more of the following disabilities may receive funding pursuant to this paragraph (c):

(A) A ~~vision disability~~ VISUAL IMPAIRMENT, INCLUDING BLINDNESS, as defined by the state board;

(B) A hearing ~~disability~~ IMPAIRMENT, INCLUDING DEAFNESS, as defined by the state board;

(C) ~~A concomitant hearing and visual impairment, the combination of which causes severe communication and other developmental and educational needs to the extent that the child cannot be accommodated in a special education program solely for children with deafness or children with blindness~~ DEAF-BLINDNESS, AS DEFINED BY THE STATE BOARD;

(D) A ~~significant identifiable~~ SERIOUS emotional disability as defined by the state

board;

(E) Autism SPECTRUM DISORDERS as defined by the state board;

(F) A traumatic brain injury as defined by the state board;

(G) Multiple disabilities as defined by the state board; or

(H) ~~Significant limited intellectual capacity~~ AN INTELLECTUAL DISABILITY as defined by the state board.

SECTION 20. 22-20-114.5 (1) (b), (2) (a), (3) (a), (3) (a.5), and (3) (b) (II), Colorado Revised Statutes, are amended to read:

22-20-114.5. Special education fiscal advisory committee - special education high-cost grants - definitions - repeal. (1) As used in this section, unless the context otherwise requires:

(b) "High costs" means the costs incurred by an administrative unit above a threshold amount determined pursuant to paragraph (e) of subsection (3) of this section in providing special ~~educational~~ EDUCATION services, either directly or by contract, to a child with disabilities regardless of the child's district of residence.

(2) (a) There is hereby created the Colorado special education fiscal advisory committee in the department. The committee shall consist of ~~thirteen~~ TWELVE members as follows:

(I) ~~The state director for exceptional student services in the department~~ A REPRESENTATIVE FROM THE UNIT IN THE DEPARTMENT RESPONSIBLE FOR THE ADMINISTRATION OF SPECIAL EDUCATION PROGRAMS;

(II) ~~The state director for grants fiscal management in the department;~~

(III) A special education director from a board of cooperative services with expertise in special education finance selected ~~jointly by the state director for exceptional student services and the state director for grants fiscal management~~ BY THE STATE BOARD BASED ON A RECOMMENDATION FROM THE STATEWIDE ASSOCIATION THAT REPRESENTS BOARDS OF COOPERATIVE SERVICES;

(IV) A business official from a small rural administrative unit to be selected by the state board based on a recommendation from a statewide association of school executives;

(V) A business official from a large urban or suburban administrative unit to be selected by the state board based on a recommendation from a statewide association of school executives; and

(VI) Eight special education specialists with appropriate statewide geographic representation to be selected by the state board based on recommendations from a statewide consortium of special education directors.

(3) (a) An administrative unit that incurs high costs in providing special ~~educational~~ EDUCATION services to a child with disabilities may apply for a high cost grant to recover all or a portion of such high costs. To receive a grant, an administrative unit shall apply to the committee in a form and manner determined by the committee and provide such information as may be requested by the committee to document the administrative unit's high costs.

(a.5) Of the total amount appropriated in a budget year for the purpose of awarding grants pursuant to this section, the committee shall use fifty percent of the amount to award grants to administrative units that have one or more children being served in an out-of-district placement for special ~~educational~~ EDUCATION services and fifty percent of the amount to award grants to administrative units with one or more children being served in an in-district placement for special ~~educational~~ EDUCATION services.

(b) (II) (A) In awarding grants pursuant to this section to administrative units that have one or more children being served in an out-of-district placement for special ~~educational~~ EDUCATION services, the committee shall first prioritize those administrative units that spent the highest percentages, based on the administrative unit's annual audited operating expenses, in the preceding budget year on high costs incurred in providing special education services to children in such out-of-district placements.

(B) In awarding grants pursuant to this section to administrative units with one or more children being served in an in-district placement for special ~~educational~~ EDUCATION services, the committee shall first prioritize those administrative units that spent the highest percentages, based on the administrative unit's annual audited operating expenses, in the preceding budget year on high costs incurred in providing special ~~educational~~ EDUCATION services to children in such in-district placements.

SECTION 21. 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 administrative units, state-operated programs, and ~~eligible facilities~~ APPROVED FACILITY SCHOOLS 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 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 as educational interpreters in administrative units, state-operated programs, and ~~eligible facilities~~ APPROVED FACILITY SCHOOLS.

(2) For purposes of this section, "educational interpreter" means a person who uses sign language in an administrative unit, a state-operated program, or an ~~eligible~~

~~facility~~ APPROVED FACILITY SCHOOL 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 an administrative unit, a state-operated program, or an ~~eligible~~ APPROVED facility SCHOOL. 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 must submit to the employing administrative unit, state-operated program, or ~~eligible~~ APPROVED facility SCHOOL.

(7) On or after July 1, 2000, in addition to any other requirements that an administrative unit, a state-operated program, or an ~~eligible~~ APPROVED facility SCHOOL may establish, any person employed as an educational interpreter for deaf students on a full-time or part-time basis by or in an administrative unit, a state-operated program, or an ~~eligible~~ APPROVED facility SCHOOL shall meet the minimum standards for educational interpreters for the deaf as established by rules of the state board.

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

22-20-119. Implementation of change of disability categories for children with disabilities. ON OR BEFORE NOVEMBER 1, 2011, THE DEPARTMENT SHALL DEVELOP GUIDELINES AND TIMELINES TO BE USED BY ADMINISTRATIVE UNITS AND STATE-OPERATED PROGRAMS FOR DEVELOPING LOCAL SYSTEMS AND INFRASTRUCTURE THAT INCORPORATE THE DISABILITY CATEGORIES SET FORTH IN SECTION 22-20-103 (5) (a). THE GUIDELINES SHALL ADDRESS NECESSARY REVISIONS TO MODEL FORMS AND LOCAL TRAINING NEEDS, PURSUANT TO SECTION 2-2-802, C.R.S. THE TIMELINES SHALL ENCOURAGE ADMINISTRATIVE UNITS AND STATE-OPERATED PROGRAMS TO IMPLEMENT THE DISABILITY CATEGORIES AND RELATED ELIGIBILITY CRITERIA ESTABLISHED IN SECTION 22-20-103 (5) (a) AS SOON AS POSSIBLE AFTER THE STATE BOARD ISSUES IMPLEMENTING RULES, TO BE ADOPTED ON OR BEFORE DECEMBER 1, 2012. ADMINISTRATIVE UNITS AND STATE-OPERATED PROGRAMS SHALL HAVE UNTIL JULY 1, 2016, TO IMPLEMENT ANY NECESSARY CHANGES WITHOUT LOSS OF SPECIAL EDUCATION FUNDING OR INCURRING ANY OTHER PENALTIES.

SECTION 23. 22-11-307, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-11-307. Accreditation of public schools. (2.5) IN ADOPTING ITS SCHOOL ACCREDITATION POLICIES FOR ITS ON-LINE PROGRAMS, AS DEFINED IN SECTION 22-30.7-102 (9), A LOCAL SCHOOL BOARD OR THE INSTITUTE BOARD SHALL INCLUDE A REVIEW OF THE ON-LINE PROGRAM'S ALIGNMENT TO THE QUALITY STANDARDS OUTLINED IN SECTION 22-30.7-105 (3) (b).

SECTION 24. 22-30.7-103 (3), Colorado Revised Statutes, is amended to read:

22-30.7-103. Division of on-line learning - created - duties. (3) **Duties.** The on-line division shall have the following duties:

(a) To consult with the state board in its creation of quality standards pursuant to section 22-30.7-105 for use by authorizers; ~~in preparing and submitting annual reports to the on-line division pursuant to section 22-30.7-109;~~

(b) To evaluate applications for certification of multi-district programs using criteria adopted by rules promulgated by the state board pursuant to section 22-30.7-106 and to recommend that the state board grant or deny certification based upon the criteria;

(c) ~~To establish a review process and timeline whereby the on-line division shall review a multi-district program two years after its initial certification pursuant to section 22-30.7-106, which review process shall include input from stakeholders, including but not limited to input from students, parents, and school districts in which a learning center of the multi-district program is located;~~

(d) To recommend to the state board on or before September 1, 2007, a process, timeline, and standard MOU form for use by multi-district programs and school districts in crafting memoranda of understanding pursuant to section 22-30.7-111 regarding the placement of learning centers within the boundaries of a school district. At a minimum, the standard MOU form shall include the information specified in section 22-30.7-111 (1) (b).

(e) ~~To establish annual reporting requirements for on-line programs pursuant to the provisions of section 22-30.7-109;~~

(f) ~~To evaluate reports submitted by on-line programs pursuant to section 22-30.7-109, as such evaluation is described in section 22-30.7-110;~~

(g) ~~To publish annual reports concerning on-line programs and supplemental programs and other information about on-line learning in a clearly identifiable section on the department's web site;~~

(h) ~~To compile the reports submitted by authorizers and school districts pursuant to section 22-30.7-109 and~~ prepare a summary report to be submitted on or before February 1, 2009, and on or before ~~June 1 each year thereafter~~ JUNE 1, 2014, AND ON OR BEFORE JUNE 1 EVERY FIVE YEARS THEREAFTER, to the state board and the education committees of the house of representatives and the senate, or any successor committees;

(i) To establish a process and timeline for documenting and tracking complaints concerning on-line programs;

(j) To collect resources to support the implementation of quality on-line programs and make the resources available to on-line programs upon request; ~~and~~

(k) To use the final report of the Trujillo commission on on-line education, which

report was released February 15, 2007, as a basis for the recommendations, criteria, standards, reporting requirements, and rules required pursuant to this subsection (3);

(l) TO ANNUALLY COLLECT AND REVIEW INFORMATION CONCERNING SOUND FINANCIAL AND ACCOUNTING PRACTICES AND RESOURCES FOR EACH ON-LINE PROGRAM. THE INFORMATION MAY BE THE SAME INFORMATION SUBMITTED BY ON-LINE CHARTER SCHOOLS PURSUANT TO SECTION 22-30.5-109 (1); AND

(m) IF THE ON-LINE DIVISION HAS REASON TO BELIEVE THAT AN ON-LINE PROGRAM IS NOT IN SUBSTANTIAL COMPLIANCE WITH ONE OR MORE OF THE STATUTORY OR REGULATORY REQUIREMENTS APPLICABLE TO ON-LINE PROGRAMS, TO PROVIDE NOTICE TO THE ON-LINE PROGRAM, AND ITS AUTHORIZER, AND REQUIRE THAT THE ON-LINE PROGRAM, TOGETHER WITH ITS AUTHORIZER, ADDRESS A PLAN FOR COMING INTO COMPLIANCE. THE PLAN MAY BE INCLUDED IN THE SCHOOL PLAN REQUIRED PURSUANT TO SECTION 22-11-210 (2).

SECTION 25. Repeal. 22-30.7-109, Colorado Revised Statutes, is repealed as follows:

22-30.7-109. On-line programs - reports - rules. ~~(1)(a) On an annual date to be determined by rules promulgated by the state board pursuant to paragraph (d) of this subsection (1), an authorizer of an on-line program shall submit a report to the on-line division. The report shall include, at a minimum:~~

~~(f) An indication of the degree to which the on-line program has satisfied the quality standards established by rules promulgated by the state board pursuant to section 22-30.7-105;~~

~~(H) The ratio of adults to students at the on-line program;~~

~~(HH) The number of on-line teachers employed by the on-line program who satisfy the requirements specified for a highly qualified teacher as such requirements are described in the federal "No Child Left Behind Act of 2001", 20 U.S.C. sec. 6301 et seq.; and~~

~~(IV) The annual budget of the on-line program, which budget shall account for all state funding received by the on-line program, in accordance with existing budgetary reporting requirements under state law.~~

~~(b) For the purposes of this section, "adult", as the term is used in subparagraph (H) of paragraph (a) of this subsection (1), shall not be construed to mean only a licensed teacher.~~

~~(c) In publishing the ratio of adults to students at an on-line program pursuant to section 22-30.7-103(3)(g), the on-line division shall include language that clarifies that the ratio of adults to students at the on-line program is not a representation of the ratio of licensed teachers to students at the on-line program.~~

~~(d) On or before January 1, 2008, the state board shall promulgate rules establishing a timeline by which an authorizer of an on-line program shall submit a report to the on-line division as described in paragraph (a) of this subsection (1)~~

and defining what constitutes "a reasonable amount of time" for purposes of this section:

~~(2) (a) The on-line division shall review each report submitted by an on-line program pursuant to subsection (1) of this section:~~

~~(b) If the on-line division determines that an on-line program needs to take corrective action for the purpose of complying with one or more of the quality standards established by rules promulgated by the state board pursuant to section 22-30.7-105, the on-line division shall provide notice to the on-line program of the on-line division's determination and provide the on-line program a reasonable amount of time to submit a plan for taking the corrective action.~~

~~(c) If the on-line division determines that an on-line program that has received notice from the on-line division as described in paragraph (b) of this subsection (2) has not submitted a plan for taking corrective action within a reasonable amount of time, the on-line division shall notify the state board and include with the notification recommendations for actions the state board may take to address the situation.~~

SECTION 26. Article 30.7 of title 22, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

22-30.7-109.5. On-line programs - report to authorizer and department.

EACH ON-LINE PROGRAM SHALL ANNUALLY SUBMIT TO ITS AUTHORIZER AND TO THE DEPARTMENT INFORMATION, PURSUANT TO STATE BOARD RULES, CONCERNING SOUND FINANCIAL AND ACCOUNTING PRACTICES AND RESOURCES. A MULTI-DISTRICT, ON-LINE PROGRAM SHALL NOTIFY ITS AUTHORIZER AND THE DEPARTMENT OF ANY INTENT TO AMEND THE PROGRAM'S APPLICATION FOR CERTIFICATION, WHICH SHALL INCLUDE ANY INTENT TO EXPAND GRADE LEVELS SERVED BY THE PROGRAM, ANY INTENT TO CHANGE EDUCATION SERVICE PROVIDERS, OR OTHER INTENDED CHANGES, AS DEFINED BY THE STATE BOARD. IF THE DEPARTMENT CONCLUDES THAT THE ON-LINE PROGRAM SHOULD NOT BE PERMITTED TO AMEND ITS APPLICATION FOR CERTIFICATION, BASED ON THE QUALITY STANDARDS ESTABLISHED BY THE STATE BOARD PURSUANT TO SECTION 22-30.7-105, THE DEPARTMENT SHALL NOTIFY THE AUTHORIZER AND THE ON-LINE PROGRAM OF ITS DECISION WITHIN THIRTY DAYS OF RECEIVING THE NOTIFICATION FROM THE PROGRAM. THE AUTHORIZER SHALL THEN HAVE THIRTY DAYS TO APPEAL THE DEPARTMENT'S DECISION TO THE STATE BOARD, PURSUANT TO THE STATE BOARD'S ADMINISTRATIVE POLICIES.

SECTION 27. Repeal. 22-30.7-110, Colorado Revised Statutes, is repealed as follows:

22-30.7-110. Reviews of multi-district programs - rules. ~~(1) Using the review process and timeline established by the on-line division pursuant to section 22-30.7-103 (3) (c), the on-line division shall review each multi-district program two years after the initial certification of the program and every three years thereafter. In reviewing a multi-district program, the on-line division shall consider the criteria established by rules promulgated by the state board pursuant to section 22-30.7-106 (4).~~

~~(2)(a) If the on-line division determines that a certified multi-district program no longer meets one or more of the criteria established by rules promulgated by the state board pursuant to section 22-30.7-106 (4), the on-line division shall notify the multi-district program and the authorizer of the program and provide a reasonable amount of time for the authorizer to submit a plan for taking corrective action to satisfy the criterion or criteria at issue.~~

~~(b) If the on-line division determines that an authorizer that has received notice from the on-line division as described in paragraph (a) of this subsection (2) has not submitted a plan for taking corrective action within a reasonable amount of time, the on-line division shall notify the state board and include with such notification recommendations for actions the state board may take to address the situation.~~

~~(3) On or before January 1, 2008, the state board shall promulgate rules to determine what constitutes "a reasonable amount of time" for the purposes of this section.~~

SECTION 28. 22-91-105 (2), Colorado Revised Statutes, is amended to read:

22-91-105. Reporting. (2) On or before ~~April~~ MAY 15, 2009, and on or before ~~April~~ MAY 15 each year thereafter, the department shall submit to the education committees of the senate and the house of representatives, or any successor committees, a report that, at a minimum, summarizes the information received by the department pursuant to subsection (1) of this section. The department shall also post the report to its web site.

SECTION 29. 29-1-304.9, Colorado Revised Statutes, is amended to read:

29-1-304.9. Fiscal note. (1) For any proposed legislation introduced after December 31, 2009, that may have a fiscal impact on a county, SCHOOL DISTRICT, OR BOARD OF COOPERATIVE SERVICES, the staff of the legislative council shall consider and provide in the local government impact section of the accompanying fiscal note, when possible, taking into account reasonable time constraints, the following:

(a) A reasonable and timely estimate of the fiscal impact on the counties, SCHOOL DISTRICTS, OR BOARDS OF COOPERATIVE SERVICES chosen in accordance with subsection (2) of this section that would result from the proposed legislation; and

(b) Potential staffing and other administrative aspects of the proposed legislation.

(2) In order to compile the information required by subsection (1) of this section, the staff of the legislative council shall request from a statewide association of county commissioners OR THE DEPARTMENT OF EDUCATION fiscal INFORMATION regarding the impact of the proposed legislation on certain counties to be determined by the association, SCHOOL DISTRICTS, OR BOARDS OF COOPERATIVE SERVICES, TO BE DETERMINED BY THE DEPARTMENT OF EDUCATION.

(3) The staff of the legislative council shall consider the information received from the association, SCHOOL DISTRICTS, OR BOARDS OF COOPERATIVE SERVICES, if any, when completing the local government impact section of any fiscal note.

SECTION 30. 22-30.5-503 (3.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-503. State charter school institute - establishment - rules. (3.5) (d) THE STATE BOARD SHALL PROMULGATE RULES TO ESTABLISH PROCESSES, GUIDELINES, AND ELIGIBILITY FOR A SINGLE SCHOOL OR CONSORTIUM OF SCHOOLS TO APPLY FOR GRANTS AND PROGRAMS PURSUANT TO THIS SECTION.

SECTION 31. 22-30.5-103 (6.7), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-103. Definitions. As used in this part 1, unless the context otherwise requires:

(6.7) "School food authority" means:

(a.3) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO SECTION 22-30.5-603;

SECTION 32. 22-30.5-104 (7) (b), Colorado Revised Statutes, is amended to read:

22-30.5-104. Charter school - requirements - authority. (7) (b) A charter school may negotiate and contract with a school district, the governing body of a state college or university, the state of Colorado, a school food authority, A CHARTER SCHOOL COLLABORATIVE, a board of cooperative services, another district charter school, an institute charter school, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the charter school is required or chooses to perform in order to carry out the educational program described in its charter contract. Any services for which a charter school contracts with a school district shall be provided by the district at cost. The charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

SECTION 33. 22-30.5-502 (10.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-30.5-502. Definitions. As used in this part 5, unless the context otherwise requires:

(10.5) "School food authority" means:

(a.3) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO SECTION 22-30.5-603;

SECTION 34. 22-30.5-507 (8) (b), Colorado Revised Statutes, is amended to read:

22-30.5-507. Institute charter school - requirements - authority. (8) (b) An institute charter school may negotiate and contract with a school district, the

governing body of a state college or university, a school food authority, A CHARTER SCHOOL COLLABORATIVE, a board of cooperative services, another institute charter school, a district charter school, or any third party for the use of a school building and grounds, the operation and maintenance thereof, and the provision of any service, activity, or undertaking that the institute charter school is required to perform in order to carry out the educational program described in its charter contract. The institute charter school shall have standing to sue and be sued in its own name for the enforcement of any contract created pursuant to this paragraph (b).

SECTION 35. 22-30.5-603, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

22-30.5-603. Charter school collaborative - creation -public status - structure. (3.5) A CHARTER SCHOOL COLLABORATIVE MAY ACT AS A SCHOOL FOOD AUTHORITY PURSUANT TO THE PROVISIONS OF THE FEDERAL "NATIONAL SCHOOL LUNCH ACT", 42 U.S.C. SEC. 1751 ET SEQ.

SECTION 36. 22-32-120 (8), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-32-120. Food services - facilities - school food authorities - rules. (8) As used in this section, "school food authority" means:

(a.3) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO SECTION 22-30.5-603;

SECTION 37. 22-54-123 (2), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-54-123. National school lunch act - appropriation of state matching funds. (2) As used in this section, unless the context otherwise requires, "school food authority" means:

(a.3) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO SECTION 22-30.5-603;

SECTION 38. 22-54-123.5 (1) (c), Colorado Revised Statutes, is amended to read:

22-54-123.5. School breakfast program - appropriation - low-performing schools. (1) (c) A district charter school, ~~or~~ an institute charter school, OR A CHARTER SCHOOL COLLABORATIVE that is a school food authority shall only be eligible to receive moneys pursuant to this section if it is a low-performing school. A district charter school or an institute charter school that is a school food authority that receives moneys pursuant to this section shall use such moneys to create, expand, or enhance its school breakfast program with the goal of improving the academic performance of the students attending the district charter school or the institute charter school.

SECTION 39. 22-54-123.5 (2) (b), Colorado Revised Statutes, is amended BY

THE ADDITION OF A NEW SUBPARAGRAPH to read:

22-54-123.5. School breakfast program - appropriation - low-performing schools. (2) As used in this section:

(b) "School food authority" means:

(1.3) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO SECTION 22-30.5-603;

SECTION 40. 22-82.7-102 (5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-82.7-102. Definitions. As used in this article, unless the context otherwise requires:

(5) "School food authority" means:

(a.3) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO SECTION 22-30.5-603;

SECTION 41. 22-82.9-103 (2.5), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

22-82.9-103. Definitions. As used in this article, unless the context otherwise requires:

(2.5) "School food authority" means:

(a.3) A CHARTER SCHOOL COLLABORATIVE FORMED PURSUANT TO SECTION 22-30.5-603;

SECTION 42. Appropriation - adjustments in 2011 long bill. For the implementation of this act, the cash funds appropriation made in the annual general appropriation act for the fiscal year beginning July 1, 2011, to the department of education, management and administration, for the division of on-line learning, is decreased by thirty-five thousand one hundred seventy-three dollars (\$35,173) and 0.2 FTE. Said sum shall be from the state education fund created in section 17 (4) (a) of article IX of the state constitution.

SECTION 43. Act subject to petition - 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 (August 10, 2011, if adjournment sine die is on May 11, 2011); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within such period, then the act, item, section, or part shall not take effect unless approved by the people at the general election to be held in November 2012 and shall take effect on the date of the official declaration of the vote thereon by the governor.

Approved: June 9, 2011